



KFN
5910
S27
C.1

CORNELL UNIVERSITY LAW LIBRARY

The Moak Collection

PURCHASED FOR

The School of Law of Cornell University

And Presented February 14, 1893

IN MEMORY OF

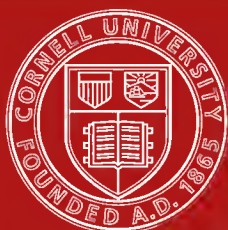
JUDGE DOUGLASS BOARDMAN

FIRST DEAN OF THE SCHOOL

By his Wife and Daughter

A. M. BOARDMAN and ELLEN D. WILLIAMS

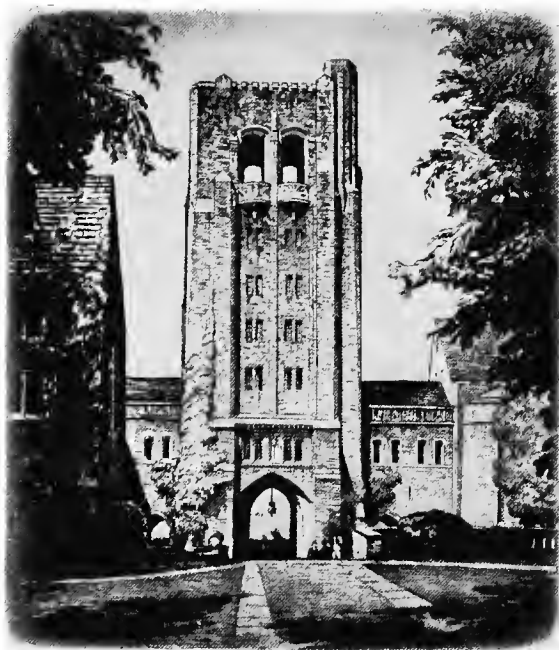




Cornell University
Library

The original of this book is in
the Cornell University Library.

There are no known copyright restrictions in
the United States on the use of the text.



Cornell Law School Library

L A W S
OF THE
STATE OF NEW YORK
RELATING TO THE
ASSESSMENT AND COLLECTION
OF
T A X E S,
INCLUDING THE STATUTES OF 1880.

CONTAINING
THE LAWS RELATING TO TREASURERS, SUPERVISORS, ASSESSORS,
COLLECTORS, AND ALL OFFICERS UNDER THE
GENERAL TAX LAWS.

WITH
NOTES OF JUDICIAL DECISIONS

AND AN
APPENDIX OF FORMS.

BY
WILLIAM W. SAXTON,
COUNSELLOR AT LAW,
COMPILER OF "THE EXCISE LAW OF THE STATE OF NEW YORK."

NEW YORK:
S. A. WILDER & CO.,
LAW BOOK PUBLISHERS, 95 NASSAU STREET
1880.

B40485, c. 2

Entered according to Act of Congress, in the year eighteen hundred and eighty, by

WILLIAM W. SAXTON,

in the office of the Librarian of Congress, at Washington, D. C.



PREFACE.

No compilation of the General Tax and Assessment Laws of the State of New York has been made since the year 1855:

During the quarter of a century that has elapsed, many new laws have been passed and amendments made by the Legislature.

It has been my aim to compile all the Statutes relating to the General Tax and Assessment Laws of this State, down to and including the year 1880.

To arrange this mass of Statutes in some systematic order, has been no easy task. Decisions of the courts have been cited where it was deemed necessary, and also an appendix containing forms.

It is hoped that this compilation may be useful to all the officers appointed to execute the Tax Laws, as well as to the many corporations, business companies, and all persons who may consult its pages, and that it may save them much time and research.

W. W. S.

HUDSON, N. Y., September 1, 1880.

CONTENTS.

CHAPTER I.

TAX TO BE LEVIED.	-	-	-	19-29
-------------------	---	---	---	-------

SECTION

- I. Board of Equalization.
- II. Oath of Office.
- III. Powers of State Assessors ; Meetings of Assessors.
- IV. Two to Transact Business ; State Assessors to Visit Counties.
- V. Deposit of Books and Papers.
- VI. Meetings of Board of Equalization ; Statement to be made.
- VII. State Tax.
- VIII. Moneys to pay County Charges, how raised.
- IX. Salary of State Assessors.
- X. All Appeals to be to State Assessors ; Notice thereof.
- XI. Duty of State Assessors on Appeals from Supervisors ;
Hearing of Appeal ; Dismissing Appeal.
- XII. Evidence on Appeal ; What State Assessors to Determine ;
Pending Appeals.
- XIII. State Tax for Deficiency in Sinking Fund ; How Tax shall be
Applied.
- XIV. Tax for paying Canal Debt ; Surplus to be Applied to Sink-
ing Fund.
- XV. Equalization, etc., of Town Taxes.

CHAPTER II.

OF THE PROPERTY OF INDIVIDUALS LIABLE TO
TAXATION. 30-44

SECTION

- I. Land and Personal Estate.
- II. "Land" Defined.
- III. "Personal Estate" Defined.
- IV. Non-Residents to be Taxed.
- V. Property Exempt.
- VI. Cemetery Property and Lots Exempt.
- VII. Soldiers' Monument Association Exempt.
- VIII. Minister or Priest Exempt.
- IX. Lands Sold by the State.
- X. Owner of Stock in any Incorporated Company when not Taxed.
- XI. Poor Houses.
- XII. Lands of Agricultural Societies.
- XIII. Demands sent to this State for Collection, not Taxed.
- XIV. Exemption of Plank Roads and Turnpikes.
- XV. Mints and Branch Mints of the United States Exempt.
- XVI. United States Assay Office.
- XVII. Property Exempt from Execution.
- XVIII. Seneca Indians Exempt.
- XIX. Tonawanda Band of Indians Exempt.
- XX. House of Rest for Consumptives Exempt.
- XXI. Home for Incurables Westchester Co., Exempt.
- XXII. Jewish Theological Seminary Exempt.
- XXIII. Lands at Albany, Utica and New York Exempt.
- XXIV. Fire Companies Exempt.
- XXV. Equalization of Town Assessments.

CHAPTER III.

ON CORPORATIONS. - - - 45-71

SECTION.

- I. Companies liable to taxation.
- II. Assessment on Banks and Bank Stock.
- III. Taxation of Bank Stock; Shareholders to be Taxed same as Shareholders of National Bank Stock.
- IV. Foreign Corporations, Companies, or Joint Stock Associations, engaged in Banking, to pay State Tax, to make Returns and pay Tax to Comptroller.

- V. Tax on Stockholders in Banks; to be assessed where Bank is located; Deduction in making Assessment.
- VI. Correct list of Stockholders to be kept in Bank for Inspection; Amount of Moneys used and Deposits; Collection of Tax; Duty of Bank as to Collection of Tax.
- VII. Property of Corporations where taxed.
- VIII. Officers to deliver Statements to Assessors and to Comptroller.
- IX. Penalty.
- X. Suits therefor.
- XI. Companies how Assessed.
- XII. The Assessment, how made.
- XIII. Application for reduction.
- XIV. Oath of Individual Bankers.
- XV. List of Individual Bankers.
- XVI. Non-Resident Stockholders.
- XVII. Banks to retain Dividends.
- XVIII. Savings Banks.
- XIX. Tax on Non-Resident Bankers.
- XX. Deposits in Savings Banks.
- XXI. Insurance Companies.
- XXII. Foreign Insurance Companies.
- XXIII. Tax on Life Insurance Companies, Amount; Return to Treasurer and Comptroller; Misdemeanor to neglect to make Return; Action to recover Tax; Lands of Companies to be Assessed where situated.
- XXIV. Capital Stock to be Taxed; President or Treasurer of every Co-operative, Joint-Stock Company to make Annual Report to Comptroller; where Dividend has not been made, Treasurer and Secretary to appraise Capital Stock; Certificate of Appraisement to be sent to Comptroller.
- XXV. Comptroller to add Ten per centum to Tax, in case of failure to Report; Failure to Report for two successive years, Comptroller to report fact to Governor; Annual Tax; Amount.
- XXVI. When Tax to be Paid; President or other officer of Insurance Companies to Report to Comptroller Semi-annually; What Report to Contain; Amount of Tax; Fire or Marine Insurance Companies to pay Tax; Amount.
- XXVII. Tax on Railroad, Canal, Steamboat and other Companies; Rate of; Tax under Section 5 to be paid Semi-annually; Treasurer to send Comptroller Statement under

Oath; Lands and Real Estate to be Taxed as heretofore, but Capital Stock exempt; Taxes to be applied to ordinary expenses of the State.

XXVIII. Corporations, where to be Taxed.

XXIX. An Act to Provide for the Organization and Regulation of Certain Business Associations—Where to be Taxed.

CHAPTER IV.

ON RENTS AND DEBTS OWING NON-RESIDENTS. 72-81

SECTION.

- I. Assessors to ascertain Amount of Reserved Rents in Leases ; Amount of Assessment ; when to be Assessed against Tenant.
- II. Board of Supervisors to Review and Correct Assessments in Certain Cases.
- III. To be Assessed at same Rates and Extent as Personal Estate.
- IV. Collection of Tax on Rents.
- V. Debts due Non-Residents.
- VI. Agents of Non-Resident Creditor to Report to County Treasurer.
- VII. Penalty for not making Report.
- VIII. Abstract to be sent to Assessors.
- IX. Name and Amount to be Entered on Assessment Roll.
- X. Unpaid Taxes, how Collected.
- XI. Warrants, how made Out.
- XII. Lien of Warrant.
- XIII. Sheriff, how Proceeded against for Neglect to Return Warrant.
- XIV. Proceedings when Warrant Returned unsatisfied.
- XV. Expenses of Treasurer and Assessor, how paid.

CHAPTER V.

ASSESSMENTS HOW MADE. - - - 82-106

SECTION.

- I. Assessment Districts ; Inquiry to be made.
- II. To Prepare Assessment Roll.
- III. Trustee, Guardian, &c.
- IV. Lands of Non-Residents, how Assessed.
- V. Unoccupied Lands, when Taxed.

- VI. Survey of Non-Resident Lands.
- VII. Rule of Valuation ; Qualification.
- VIII. Property Omitted, how Taxed ; Duty of Supervisors ;
Amount to be Deducted from other Taxes.
- IX. Corrected Tax.
- X. Roll, when to be Completed ; Notice.
- XI. Contents of Notice ; Meaning of "Person."
- XII. Penalty for Neglect.
- XIII. Inspection of Roll.
- XIV. Reduction of Valuation ; Oath.
- XV. Assessment Roll, to be Sworn to.
- XVI. Roll to be Delivered to Supervisor.
- XVII. Neglect of Assessors.
- XVIII. Duty of Board of Supervisors.
- XIX. Supervisors to Examine Assessment Roll.
- XX. Lands of Non-Resident, Tax to be set down ; Aggregate
Valuation ; Corrected Assessment Roll.
- XXI. Blank Forms and Instructions ; Distribution thereof.
- XXII. Review and Correction of Illegal, Erroneous or Unequal
Assessments.
- XXIII. Assessors to Apportion Valuation of Property of Delaware
and Hudson Canal Company, among the Several
School Districts ; To be in Writing ; Supervisors to
make same in case of Neglect of Assessors.

CHAPTER VI.

WHERE AND TO WHOM PROPERTY TO BE ASSESSED. 107-111

SECTION

- I. Lands where Assessed.
- II. To whom Assessed.
- III. When Divided by Town Line.
- IV. On Bridges and Roads ; Assessment of.
- V. Personal Property where Assessed.
- VI. Consignment of Products to Agents.
- VII. Tax on Non-Residents.
- VIII. Assessors to make Separate Valuations of Town and Village
or City Lands.
- IX. Highway Commissioners to Assess labor for part lying in
Towns only.

CHAPTER VII.

ASSESSORS.	- - -	112-120
------------	-------	---------

SECTION

- I. Election of Assessors ; by Ballot.
- II. To take Oath of Office ; Neglect to take Oath.
- III. Penalty for Refusing to Serve ; Quakers Chosen, Resignation of.
- IV. Vacancies, how Filled ; If Towns Neglect to Choose, Justices to Appoint.
- V. Assessors, When Appointed ; Fees of Assessors.
- VI. Assessors to Ascertain Number of Insane Persons.
- VII. Delinquent Assessors to be Returned to the Comptroller.
- VIII. Correcting Imperfect Descriptions of Lands ; Duty of Supervisors Thereupon.
- IX. Duty of Assessors in Enforcing Payment of Taxes ; punishment may be Inflicted if Payment cannot be Enforced.
- X. Assessors in Villages.

CHAPTER VIII.

DUTY OF ASSESSORS AS TO DOG-TAX.	121-125
----------------------------------	---------

SECTION

- I. Assessors to Assess Dog Tax.
- II. Duty of Assessors to Ascertain Owners of Dogs.
- III. Owner to Deliver Description.
- IV. Tax, how Collected.
- V. To Ascertain Damage to Sheep.
- VI. Their Certificate to be Evidence.
- VII. Duties and Powers of Fence Viewers.
- VIII. Certificate to be Presented to Town Auditors.
- IX. Act extended to other Counties.

CHAPTER IX.

DUTIES OF SUPERVISORS.	126-144
------------------------	---------

SECTION

- I. Board of Supervisors to Transmit Statement to Comptroller.
- II. Appeals by Supervisors to Comptroller.
- III. When Appeal must be made and Filed.

- IV. Costs in Case of Appeal.
- V. Amendment Applicable to Former Appeals.
- VI. To Publish Proceedings.
- VII. Taxes on Lands of Residents and Railroads Returned Unpaid.
- VIII. Tax may be paid to County Treasurer.
- IX. Description of Land to be made by Supervisor.
- X. If not made, Tax Assessed upon Town.
- XI. How Assessed in case of Division of Town.
- XII. Authorizing Supplementary Proceedings for the Collection of Taxes.
- XIII. Clerks of Board of Supervisors to Report to Comptroller Indebtedness of Counties, Villages and Towns.
- XIV. May Legalize Acts of Towns ; Correct Errors in Assessments ; Refunding of Taxes.
- XV. Appeals ; Taxes Refunded ; How Apportioned.
- XVI. Supervisors to Levy Amount Due Persons for Taxes in Disputed Boundary Lines.
- XVII. When Supervisors to Raise Money to Defray Expenses of Insane Poor at Asylum.
- XVIII. Expenses of Insane Poor at Asylum to be Defrayed by County or Town ; When to be Paid by County Treasurer.
- XIX. Towns and Villages may Levy Tax to Provide Sinking Fund to Pay Bonded Indebtedness.
- XX. Amount to be Determined by Town Board or Village Trustees ; Notice, how Given.
- XXI. Money Raised how Disposed of ; Duty of Supervisor of Town or Village President.
- XXII. Money may be borrowed for Highway Purposes in any Town.
- XXIII. Board of Supervisors to Prescribe Form of Obligation ; Tax, how Imposed.
- XXIV. Supervisor to give Bonds to County Treasurer for School Money.
- XXV. Supervisors to Authorize County Treasurer to extend time for Collection of Taxes.
- XXVI. Supervisors to Impose Tax on Dogs.
- XXVII. Tax to pay orders for Sheep killed.
- XXVIII. Supervisors to Authorize any Town to Elect a Tax Receiver.
- XXIX. Supervisors to Designate number of Assessors.
- XXX. Supervisors to Provide Tax to pay Loans.
- XXXI. Supervisors to pay Troops while on Duty at Request of Sheriff or Mayor.
- XXXII. When may Refund Tax.

CHAPTER X.

DUTIES OF COLLECTOR.	- - -	145-176
----------------------	-------	---------

SECTION.

- I. Election of Collector.
- II. Tax Receiver may be Elected.
- III. Collector to Give Bond.
- IV. Proceedings if Collector Refuse to Serve; Warrant to Person Appointed.
- V. Proceedings where Collector Neglects to Qualify.
- VI. Supervisor to Deliver Assessment Roll.
- VII. Warrant to be Annexed; Its Contents.
- VIII. Duty of Collector and Liability.
- IX. Collector's Fees.
- X. Account to be Transmitted to County Treasurer.
- XI. Notice by Collector of Receipt of Tax Warrant; Fees.
- XII. Town Collector's Fees.
- XIII. Act Applicable to Kings County.
- XIV. Payment, How Compelled.
- XV. Tax on Part of Lot.
- XVI. In Case of Refusal or Neglect; Payment, How Enforced.
- XVII. Bond, When Considered Assigned to County Treasurer.
- XVIII. Sale and Notice.
- XIX. Proceedings in Case of Removal of Person Taxed.
- XX. Tax on Corporations, How Collected.
- XXI. Payment of Taxes by Rail Roads.
- XXII. Non-Resident Stockholders.
- XXIII. Collector to Pay Over.
- XXIV. When Collector is Stayed by Injunction.
- XXV. Over Tax.
- XXVI. Duty as to Unpaid Taxes.
- XXVII. Proceedings if Collector Refuses to Pay Over Moneys.
- XXVIII. Duty of Sheriff on Warrant against Collector.
- XXIX. Sheriff's Return.
- XXX. Satisfaction of Collector's Bond.
- XXXI. Losses on Account of Collector, &c., on What Charged.
- XXXII. Sales for United States Direct Tax.
- XXXIII. Comptroller May Require Correct Returns.
- XXXIV. Where Premises of One Person Erroneously Assessed and Taxed in and with Premises of Another; Application to Apportion Taxes.
- XXXV. Duty of County Court; Duty of Collector.

CHAPTER XI.

DUTIES OF COMPTROLLER.	171-192
------------------------	---------

SECTION.

- I. Attorney General to File Petition in Supreme Court.
- II. Comptroller's Certificate or Deed; May Assign to Counties Certificate of Tax Sales.
- III. State Tax, When to be Paid; How Paid.
- IV. Certificate of Unpaid Taxes.
- V. Apportionment of State Tax.
- VI. Lands Imperfectly Described.
- VII. Arrears, How Paid.
- VIII. Account with County Treasurer.
- IX. To Furnish Statement of Arrears; Rejected Taxes.
- X. Taxes on Lands Imperfectly Described.
- XI. Transcript to be Delivered to Supervisor.
- XII. Tax, When Cancelled; Account to be Transmitted to Supervisor.
- XIII. Over Paid Taxes.
- XIV. Interest on Taxes.
- XV. Certificate of Taxes Due.
- XVI. Persons may Pay Tax for Their Interest in Lands.
- XVII. Taxes, How Paid; Over Charges.
- XVIII. Over Charges to be Charged to County; Town to be Liable Therefor.
- XIX. Lands on which State has a Lien not to be Sold at Tax Sale.
- XX. How Lien Discharged.
- XXI. In Case Payment shall not be Made.
- XXII. Land Bonded to the State, Where Re-Sold.
- XXIII. Comptroller Authorized to Admit Unpaid Taxes of 1879.
- XXIV. Comptroller Empowered to Issue Bonds in Anticipation of State Tax; Proceeds to be Applied to the Current Expenses of the Government; Limit of Gross Amount; Appropriation.
- XXV. Comptroller Annually to Draw Warrant on Treasurer for National Guards; Amount.

CHAPTER XII.

DUTY OF COUNTY TREASURERS.	193-211
----------------------------	---------

SECTION.

- I. County Treasurer's Bond; New Bond may be Required; Forfeiture of Office.

- II. Treasurer's Bond to the State ; To be Filed with Comptroller ; May Require Further Bond ; Office Vacated.
- III. Pay of County Treasurers.
- IV. When Court may Direction Action to be Brought on Treasurer's Bond.
- V. County to be Protected against Costs ; Security ; Judgment not a Bar.
- VI. When Counties to Pay State Taxes.
- VII. Taxes Upon Rail Road Valuations to be Paid to County Treasurer.
- VIII. Investments by Treasurer in Other Bonds ; Bonds Purchased to be Held as Sinking Fund.
- IX. Proceedings in Case of Neglect of Duty of County Treasurer ; Orders of County Judge, How Enforced.
- X. County Treasurer to Execute Additional Official Bond.
- XI. County Treasurer to Report to Adjutant General amounts of Money on account of National Guard.
- XII. Treasurer to pay Trustees amount of Taxes returned unpaid.
- XIII. County Treasurer to Report to Supervisors unpaid Taxes of School Moneys.
- XIV. County Treasurer to designate Banks of Deposit ; Interest on Deposits ; Treasurer to Deposit monies ; Limitation to Depositories ; Proviso.
- XV. Depositary to give Bond.
- XVI. Treasurers not Relieved from Liability ; Monies only to be drawn for County Claims ; Misappropriation ; Transferring Deposits.
- XVII. Salary of County Treasurer ; Clerks and Assistants ; Account of Treasurer.
- XVIII. Misconduct of Treasurer ; Removal of Treasurer ; Counties Exempt.
- XIX. When Treasurer may retain compensation for Receiving and Paying Money belonging to the State.
- XX. Penalty for neglect to Deliver Money, Books and Papers to Successor ; Penalty for Neglect to Pay over Money on order of the Court.
- XXI. Return of Tax for want of Goods and Chattels to Satisfy.
- XXII. Fines and Penalties imposed by Court Martial to be paid in to County Treasurer
- XXIII. Accounts ; With Supervisors ; Books and Papers to be delivered and Monies paid to Successor.

CHAPTER XIII.

SALES FOR UNPAID TAXES, AND THE CONVEYANCE AND
REDEMPTION OF LAND SOLD. 212-241

SECTION

- I. Land when to be Sold.
- II. List of Lands and Notices of Sale.
- III. Lists, how Transmitted; Pay of Agents.
- IV. Expenses, how Paid.
- V. Copies in Treasurer's Office.
- VI. Treasurer's Expenses; Notice by Town Clerk.
- VII. General Notice; Affidavit of Publication.
- VIII. Maps of Land sold; Sale.
- IX. Comptroller, &c., not to be Interested in Tax Sales;
Misdemeanor.
- X. Bids, how made.
- XI. Certificate of Purchase; Cancellation of Sale.
- XII. Comptroller may set aside Cancellation of Sale.
- XIII. New Certificate; Change of Purchaser.
- XIV. Time for Redemption; Undivided Parts.
- XV. Undivided Share of Undivided Part; Specific Part.
- XVI. Specific Part of Undivided Tract; Proportional Parts how
Paid.
- XVII. Partial Redemption; Taxes on Land Conjointly sold.
- XVIII. Suits for Proportion of Value.
- XIX. Lien of Judgment; Docket how made.
- XX. Notice of Unredeemed Lands.
- XXI. How Published; Deeds.
- XXII. Lost Certificate.
- XXIII. Conveyances how Executed.
- XXIV. Bids for State.
- XXV. Sale of Lands bid in by Comptroller.
- XXVI. Notice to Occupants.
- XXVII. Notice how Served; Redemption.
- XXVIII. Certificate; Affidavit of Service of Notice.
- XXIX. Comptroller's Certificate of Facts; Occupant may Re-
deem.
- XXX. Treasurer's Receipt; Mortgage Liens not Affected.
- XXXI. Notice to Mortgagee, when to be Given.
- XXXII. Mortgagee's Lien; Failure to Pay.
- XXXIII. "Mortgagee" Defined; Notice how Served.
- XXXIV. Bids for State.
- XXXV. Sale of Lands Bid in by Comptroller.
- XXXVI. Notice to Occupants.
- XXXVII. Moneys to be Paid into Treasury; Neglect of Duty.

- XXXVIII. Pay of County Treasurers.
- XXXIX. Payments how Audited.
- XL. Exceptions; Repeal.
- XLI. Supreme Court, When to Order Sale of Lands to Pay Taxes; May Extend Time for Redemption.
- XLII. Redemption by Agreement.
- XLIII. Proceedings in Case of Unknown Owners.
- XLIV. Presumptive Owners may be made Parties; Sales how Made.
- XLV. Sale &c. of Lands for Taxes in Villages.

APPENDIX.

APPENDIX OF FORMS,	- - - -	242-253
--------------------	---------	---------

ASSESSMENT AND COLLECTION OF TAXES.

CHAPTER I.

STATE ASSESSORS—TAX TO BE LEVIED.

SECTION I, Board of Equalization.

- II. Oath of Office.
- III. Powers of State Assessors ; Meetings of.
- IV. Two to Transact Business ; State Assessors to visit Counties.
- V. Deposit of Books and Papers.
- VI. Meetings of the Board of Equalization ; Statement to be Made.
- VII. Amount of State Tax as fixed by Comptroller to be Assessed ; Mandamus in Case of Neglect or Refusal.
- VIII. Monies to Pay County Charges, How Raised.
- IX. Salary of State Assessors.
- X. All Appeals to be to State Assessors ; Notice thereof.
- XI. Duty of State Assessors on Appeals from Supervisors ; Hearing of Appeals ; Dismissing Appeals.
- XII. Evidence on Appeal ; What State Assessors to Determine ; Pending Appeals.
- XIII. State Tax for Deficiency in Sinking Fund ; How Tax shall be Applied.
- XIV. Tax for Paying Canal Debt ; Surplus to be applied to Sinking Fund.
- XV. Equalization of Town Taxes.

SECTION I.

BOARD OF EQUALIZATION.

The commissioners of the land office and three state assessors, whose appointment is herein provided for, shall constitute a board of equalization, whose duty it shall be to equalize the state tax among the several counties of the state, and to fix the amount of assessment of real and personal estate on which the state tax shall be levied in each county.

SECTION II.

OATH OF OFFICE.

The said assessors, before entering upon the duties of their office, shall take and prescribe the usual oath of office before the secretary of state or a justice of the supreme court.

Laws 1859, chap. 312, sec. 12.

SECTION III.

POWERS OF STATE ASSESSORS—MEETING OF.

The said assessors shall have power to swear witnesses and examine all persons and papers which they shall deem necessary to the proper discharge of their duties, and the state, town, county and city officers shall furnish them with all information belonging to or connected with their respective officers, and copies of all papers in their various offices which the assessors may require of them in the proper discharge of their duties.

Laws 1859, chap. 312, sec 4; 3d Ed. Rev. Stat. 377.

The said assessors shall meet within ten days after their appointment, in the city of Albany, and adopt their plan of action.

Id., sec. 5.

SECTION IV.

TWO TO TRANSACT BUSINESS—STATE ASSESSORS TO VISIT COUNTIES, ETC.

Any two of said assessors shall have authority to transact all business appertaining to their office, but all three must be duly notified of each and every meeting for the transaction of business. In case of the death, resignation, refusal or inability to serve, of any one or more of said

assessors, while the senate is not in session, the governor is hereby authorized to fill such vacancies, and the person so appointed shall hold the office the balance of the term; provided his appointment shall be confirmed by the senate, on the nomination of the governor, at the next session thereof.

Laws 1859, chap. 312, sec. 6; 3d Ed. Rev. Stat., 377.

The state assessors shall visit, officially, every county in the state, at least once in two years, and they shall prepare a written digest of such facts as they may deem most important for aiding the board of equalization in the discharge of its duties. They shall commence a course of examination and visitation of the counties in the month of May next, or before, and diligently prosecute the same.

Id. sec. 7.

SECTION V.

DEPOSIT OF BOOKS AND PAPERS.

All books and papers pertaining to the duties of the office of state assessor shall be deposited with the comptroller.

Laws of 1859, chap. 312, sec. 11.

SECTION VI.

MEETINGS OF THE BOARD OF EQUALIZATION. STATEMENT TO BE MADE.

The board of equalization shall meet in the city of Albany on the first Tuesday in September, in each year, for the purpose of examining and revising the valuation of the real and personal estate of the several counties, as returned to the office of the comptroller, and fixing the aggregate amount of assessment for each county on which the comptroller shall compute the state tax. The board of equalization may increase or diminish the aggregate valua-

tion of real estate in any county by adding or deducting such sum as in their opinion may be just and necessary to produce a just relation between all the valuations of real estate in the state; but they shall in no instance reduce the aggregate valuations of all the counties below the aggregate valuations thereof as returned by the boards of supervisors to the comptroller's office; but the aggregate of the assessed valuation of the whole state shall, not for the year eighteen hundred and fifty-nine, be increased or diminished by the board of equalization. A statement of the amount of assessment for each county, as fixed by the board of equalization, shall be certified by said board and deposited in the office of the comptroller, as soon as completed, and before the tenth day of October in each year. The comptroller shall immediately ascertain, from this assessment, the proportion of state tax each county shall pay, and send a statement of the amount by mail to the county clerk, and the chairman and clerk of the board of supervisors.

If the name or residence of the chairman or clerk of the board of supervisors shall be unknown to the comptroller, he may inclose such statement in an envelope addressed to him by his name of office, and directed to the county town of the county. The county clerk shall file the statement received by him in his office, and immediately send a copy thereof to the chairman of the board of supervisors of the county.

Laws 1859, Chap. 312, sec. 8; 3 Ed. Rev. Stat. 379.

SECTION VII.

AMOUNT OF STATE TAX AS FIXED BY COMPTROLLER TO BE
ASSESSED—MANDAMUS IN CASE OF NEGLECT OR REFUSAL.

The amount of state tax which each county is to pay, so fixed and stated by the comptroller as aforesaid, shall be assessed by the supervisors or other officers authorized to make the assessment of state taxes in the tax roll for

the calendar year, in and for which the same shall have been ascertained and stated by the comptroller as aforesaid, and shall be included in and collected by the annual collection of taxes in the several counties in the manner prescribed by law; and if the board of supervisors or other officers authorized to make such assessments shall neglect or refuse to include and assess such tax, or any part thereof, in said assessment roll, then the comptroller of the state may immediately proceed by mandamus before any court having jurisdiction, to compel the board of supervisors or other officers required to make such assessments to do the same or make a new assesment for the same, which shall be collected as provided for the collection of other taxes.

Laws 1859, Chap. 312, sec. 9; as amended Laws 1874, sec. 351; sec. 3, 9th Ed. Rev. Stat. 903.

SECTION VIII.

MONEYS TO PAY COUNTY CHARGES, HOW RAISED.

The moneys necessary to defray the county charges of each county, shall be levied on the taxable property in the several towns in such county, in the manner prescribed in the thirteenth chapter of this act. And in order to enable their respective county treasurers to pay such contingent expenses, as may become payable from time to time, the board of supervisors of the several counties shall annually cause such sum to be raised in advance in their respective counties, as they shall deem necessary for that purpose.

1 Ed. Rev. Stat. 359, sec. 5.

1 Rev. Stat. 386.

SECTION IX.

SALARY OF STATE ASSESSORS.

The said state assessors shall receive an annual salary of two thousand five hundred dollars each, and not to exceed five

hundred dollars each for other expenses, while engaged in the discharge of their official duties.

Laws 1859, chap. 312, sec. 10 as amended.

Laws 1874, chap. 351, sec. 4.

SECTION X.

APPEALS TO STATE ASSESSORS INSTEAD OF COMPTROLLER.

All appeals that shall be hereafter brought under the provisions of the acts hereby amended shall be to the state assessors instead of the comptroller, and as to such and all appeals pending under said act upon the hearing of which the comptroller has not entered, the state assessors are vested with, and shall exercise, all the powers and discharge all the duties that by said act and the amendments thereof are vested in or imposed upon the comptroller, in lieu of said comptroller; and when any appeal shall hereafter be brought, a notice of such appeal shall be served on the state assessors by filing the same in the office of the secretary of state, within ten days after the final completion of the corrected assessment rolls by the board of supervisors, and such notice shall also be served on the chairman of said board of supervisors within the same time.

The provisions of this act shall apply to all appeals pending and undetermined at the time of its passage.

Laws 1880, chap. 80, amending.

Laws 1874, chap. 351, sec. 5.

SECTION XI.

DUTY OF STATE ASSESSORS ON APPEALS FROM SUPERVISORS— HEARING OF APPEAL—DISMISSING APPEAL.

It shall be the duty of the state assessors to prepare a form of petition and notice of appeal from decisions of boards of supervisors, in the equalization of assessments in their respective counties, and also to prepare rules and regulations in relation to bringing such appeals and the hearing

or trial thereof, which shall be submitted to the comptroller for his approval, and when so approved shall be the forms, rules and regulations of said board of state assessors, and be filed in the office of the comptroller.

Every such appeal duly brought shall be heard by said board in the county in which such appeal originated, at a time and place to be fixed by said board, and they shall notify the supervisor of the town, ward or city appealing, by mail, of the time and place so fixed upon, at least twenty days prior thereto. In case the appellant or his successor fails to appear and produce evidence to sustain the appeal at the time and place appointed, or on the day to which such hearing or trial shall have been adjourned, if an adjournment shall have been had, said state assessors shall make an order dismissing said appeal as not sustained, which shall have the same effect in all respects as if said appeal had not been sustained after a trial or hearing on the merits on evidence.

Laws of 1876, chap. 49.

Laws of 1859, chap. 312.

SECTION XII.

EVIDENCE ON APPEAL—WHAT STATE ASSESSORS TO DETERMINE—PENDING APPEALS.

On every such hearing or trial, the evidence shall in part relate to the assessment and full and true value of real and personal property, and the said state assessors shall determine whether or not injustice has been done to the town, ward or city, so appealing, in the equalization of real and personal property assessed therein, as compared with the other wards, towns or cities of said county, and shall determine whether any, and if any what deductions ought to be made from the aggregate corrected valuation of said real and personal property, as made by the board of supervisors, and shall also determine to what town or towns, ward or wards, city or cities, in such county said deductions, if any,

shall be added, and shall certify their determination in writing to said board of supervisors and forward the same by mail, within ten days thereafter, to the clerk of said board of supervisors, directed to him at his post-office address.

The provisions of this act shall apply to all appeals, pending and undetermined at the time of its passage.

All laws inconsistent with the provisions of this act are hereby repealed.

Laws 1876, chap. 49.

See chap. 312, Laws of 1859.

SECTION XIII.

STATE TAX FOR DEFICIENCY IN SINKING FUND—HOW TAX SHALL BE APPLIED.

SECTION 1. There shall be imposed, for the fiscal year beginning on the first day of October, one thousand eight hundred and eighty, a state tax of thirty-four one-hundredths of a mill on each dollar of the valuation of the real and personal property in this state subject to taxation; which tax shall be assessed, levied and collected by the annual assessment and collection of taxes for that year in the manner prescribed by law; and shall be paid by the several county treasurers into the treasury of this state, to be held by the state treasurer for appropriation to the purposes designated in the second section of this act.

SEC. 2. The whole of the tax levied and collected under the preceding section shall be paid into the treasury of this state to the credit of the canal fund, and is hereby appropriated and shall be applied as follows: For the payment to the sinking fund, under section three of article seven of the constitution, the sum of eight hundred and twenty-nine thousand six hundred and sixty-three dollars and fifty-four cents, to supply the deficiency which existed in said sinking fund on the thirtieth September last. For the payment to said sinking fund, the further sum of sixty-six thousand three

hundred and seventy-three dollars and eight cents, being the interest on the aforesaid deficiency to the time when the same will be realized from the tax.

Laws 1880, chap. 248.

SECTION XIV.

TAX FOR PAYING CANAL DEBT—SURPLUS TO BE APPLIED FOR EXTINGUISHMENT OF SINKING FUND.

SECTION 1. The sum of five hundred and thirty-eight thousand nine hundred and two dollars is hereby appropriated out of the sinking fund under section three of article seven of the constitution to pay the interest on the debt contracted under said section, as the same shall become due during the fiscal year commencing October first, one thousand eight hundred and eighty.

SEC. 2. If, after paying the expenses of collection, superintendence and ordinary repairs of the canals, for the fiscal year commencing on the first day of October, one thousand eight hundred and eighty, there shall be any surplus of the revenues of the canals, such surplus is hereby appropriated to the sinking fund for the extinguishment of the principal and interest of the loans made under section three of article seven of the constitution.

Laws 1880, chap. 251.

SECTION XV.

EQUALIZATION OF TAXES.

SECTION 1. Section fifteen of chapter three hundred and twelve of the laws of eighteen hundred and fifty-nine, entitled "An act to equalize the state tax among the several counties in the state," being a section added to said act by chapter three hundred and twenty-seven of the laws of eighteen hundred and seventy-three, and amended by chapter three hundred and fifty-one of the laws of eighteen

hundred and seventy-four, is hereby amended so as to read as follows :

SEC. 15. Whenever any appeal so made shall not be sustained the costs and expenses arising therefrom, and connected therewith, shall be a charge upon the town, city, or ward so appealing, which shall be audited by the board of supervisors, and levied upon the taxable property of said town, city or ward ; and whenever any appeal so made shall be sustained, the state assessors shall certify the reasonable costs and expenses arising therefrom and connected therewith, on the part of the appellant and respondent, and such amounts so certified shall be audited by the board of supervisors and levied and collected from all the towns and cities of the county in the assessment and collection of taxes for the current year, excepting those towns and cities in which such appeal was sustained ; and whenever more than one town or city in a county shall have appealed, some of which are sustained and some dismissed, it shall be the duty of the state assessors to decide what portion of the costs and expenses shall be borne by the town or towns, city or cities, in which such appeal was dismissed.

SEC. 2. Section five of said chapter three hundred and fifty-one of the laws of eighteen hundred and seventy-four is hereby amended so as to read as follows :

SEC. 5. All appeals that shall be hereafter brought under the provisions of the acts hereby amended shall be to the state assessors instead of the comptroller, and as to such and all appeals pending under said act upon the hearing of which the comptroller has not entered, the state assessors are vested with, and shall exercise, all the powers and discharge all the duties that by said act and the amendments thereof are vested in or imposed upon the comptroller, in lieu of said comptroller ; and when any appeal shall hereafter be brought, a notice of such appeal shall be served on the state assessors by filing the same in the office of the secretary of state, within ten days after the final completion of the corrected assessment rolls by the

board of supervisors, and such notices shall also be served on the chairman of said board of supervisors within the same time.

SEC. 3. The provisions of this act shall apply to all appeals pending and undetermined at the time of its passage.

SEC. 4. This act shall take effect immediately.

Session Laws 1880, chap. 80.

CHAPTER II.

OF THE PROPERTY OF INDIVIDUALS LIABLE TO TAXATION.

SECTION I. Land and Personal Estate.

- II. "Land" Defined.
- III. "Personal Estate" Defined.
- IV. Property of Non-Residents.
- V. Property Exempt.
- VI. Cemetery Property and Lots Exempt.
- VII. Soldiers' Monument Association Exempt.
- VIII. Minister or Priest Exempt.
- IX. Lands Sold by the State.
- X. Owner of Stock in Incorporated Company. When not Taxed.
- XI. Poor Houses.
- XII. Lands of Agricultural Societies.
- XIII. Demands Sent to this State for Collection Not to be Taxed.
- XIV. Exemption of Plank Roads and Turnpikes.
- XV. Mints and Branch Mints of the United States.
- XVI. United States Assay Office.
- XVII. Property Exempt from Execution.
- XVIII. Seneca Nation of Indians Exempt.
- XIX. Tonawanda Band Seneca Indians Exempt.
- XX. House of Rest for Consumptives Exempt.
- XXI. Home for Incurables, Westchester Co., Exempt.
- XXII. Jewish Theological Seminary Exempt.
- XXIII. Land at Albany, Utica, etc., Exempt.
- XXIV. Fire Companies, Exempt.
- XXV. Equalization of Town Assessments.

SECTION I.

LAND AND PERSONAL ESTATE.

All lands and all personal estate within this state, whether owned by individuals or by corporations, shall be liable to taxation, subject to the exemptions hereinafter specified.

Edmonds Rev. Stat., vol. 1, page 360, sec. 1; 1 Rev. Stat. 387.

SECTION II.

LAND DEFINED.

The term land, as used in this chapter, shall be construed to include the land itself, including land under water, all buildings and other articles erected upon or affixed to the same, all trees and underwood growing thereon, and all mines, minerals, quarries and fossils, in and under the same, except mines belonging to the state; and the terms real estate and real property, whenever they occur in this chapter, shall be construed as having the same meaning as the term land, thus defined.

1 Rev. Stat., 387, sec. 2; 1 Ed. Rev. Stat., 360, as amended by Laws 1873, chap. 530.

People ex rel., Dunkirk, etc., R. R. Co. v. Cassity, 46 N. Y. Rep. 46.
Fellows v. Denniston, 23 N. Y. Rep. 420.

SECTION III.

"PERSONAL ESTATE" DEFINED.

SECTION 3. The terms "personal estate" and "personal property," whenever they occur in this chapter, shall be construed to include all household furniture, monies, goods, chattels, debts due from solvent debtors, whether on account, contract, note, bond or mortgage, public stocks and stocks in monied corporations. They shall also be construed to include such portion of the capital of incorporated companies liable to taxation on their capital as shall not be invested in real estate.

1 Rev. Stat. 387, sec. 3.

1 Ed. Rev. Stat. 360.

People ex rel. Westbrook v. Trustees of Ogdensburg, 48 N. Y. Rep. 390.

SECTION IV.

NON-RESIDENTS TO BE TAXED.

All persons and associations doing business in the state of New York, as merchants, bankers or otherwise, either as principals or partners, whether special or otherwise, and not residents of this state, shall be assessed and taxed on all sums invested in any manner in said business the same as if they were residents of this state; and said taxes shall be collected from the property of the firms, persons or associations to which they severally belong.

Laws 1855, chap. 37.

SECTION V.

PROPERTY EXEMPT.

SECTION 4. The following property shall be exempt from taxation:

SEC. 1. All property, real or personal, exempted from taxation by the constitution of this state, or under the constitution of the United States;

SEC. 2. All bonds belonging to this state, or the United States;

SEC. 3. Every building erected for the use of a college, incorporated academy, or other seminary of learning; every building for public worship; every school house, court house and jail; and the several lots whereon such buildings are situated, and the furniture belonging to each of them;

Chegary v. Mayor, &c., N. Y. 13.
13 N. Y., R. 220.

The exemption from taxation of every building for public worship and every school house or other seminary of learning * * * shall not apply to any such building or premises in the city of New York, unless the same shall be exclusively used for such purposes and exclusively the

property of a religious society, or of the N. Y. Public School Society.

Laws 1852, chap. 282.

SEC. 4. Every poor house, alms house, house of industry, and every house belonging to a company incorporated for the reformation of offenders, or to improve the moral condition of seamen, and the real and personal property used for such purposes belonging to or connected with the same;

SEC. 5. The real and personal property of every public library;

SEC. 6. All stocks owned by the state, or by literary or charitable institutions;

Chapter 195 of the laws of 1845, Sec. 2, declares that the exemption under sub. 6 is to be for the benefit of the state, or the literary or charitable institutions, and the amount of the exemption is to be added to the dividends on such stock.

SEC. 7. The personal estate of every incorporated company not made liable to taxation on its capital, in the fourth title of this chapter.

SEC. 8. The personal property of every minister of the gospel, or priest, of any denomination; and the real estate of such minister, or priest, when occupied by him, provided such real and personal estate do not exceed the value of one thousand five hundred dollars; and,

SEC. 9. All property exempted by law from execution.

1 Ed. Rev. Stat., p. 361.

SECTION VI.

CEMETERY PROPERTY AND LOTS EXEMPT.

The cemetery lands and property of any association formed pursuant to this act shall be exempt from all public taxes, rates and assessments; and shall not be liable to be sold on

execution or be applied in payment of debts due from any individual proprietors, &c.

Laws 1847, chap. 133, sec. 10.

The cemetery lands and property of any association formed pursuant to this act shall be exempt from all public taxes, rates and assessments, and shall not be liable to be sold on execution or be applied in payment of debts due from any individual proprietor, (provided such individual proprietor shall have actually used the lot or lots held and owned by him, for a family burying lot by interment therein, or shall have acquired and shall hold the same with an intent so to use the same,) &c.

Laws of 1847, chap. 133, as amended by Laws 1869, chap. 708.

SECTION VII.

SOLDIERS' MONUMENT ASSOCIATION EXEMPT.

SECTION 5. The property of any soldiers' monument association formed pursuant to this act, shall be exempt from levy and sale on execution, and from all public taxes, rates and assessments, and no street, road, avenue or thoroughfare shall be laid through the lands of such association held for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the legislature of the state.

Laws of 1866, chap. 273, sec. 6; vol. 6 Ed. Rev. Stat. p. 715.

SECTION VIII.

MINISTER OR PRIEST EXEMPT.

If the real and personal estate, or either of them, of any minister or priest, exceed the value of one thousand five hundred dollars, that sum shall be deducted from the valuation of his property, and the residue shall be liable to taxation.

Vol. 1, Ed. Rev. Stat., p. 361.

1 Rev. Stat. 388.

SECTION IX.

LANDS SOLD BY THE STATE.

Lands sold by the state, though not granted or conveyed, shall be assessed in the same manner as if actually conveyed.

Id.

SECTION X.

OWNER OF STOCK IN INCORPORATED COMPANY, WHEN NOT TAXED.

The owner or holder of stock in any incorporated company liable to taxation on its capital, shall not be taxed as an individual for such stock.

Ed. Rev. Stat., vol. 1, p. 361.

Ed. Rev. Stat., vol. 3, p. 679.

Laws 1845, chap. 195.

SECTION XI.

POOR HOUSES.

Every poor house, alms house or other place provided by any city, town or county, for the reception and support of the poor, and all real and personal property whatever, belonging to or connected with the same, shall be exempt from all assessment and taxation, levied either by the state or by any county, city, town or village; and the keeper of every poor house, almshouse, or other place provided as aforesaid, shall be exempt from all service in the militia, from serving on juries, and for all assessments for labor on the highways.

1 Ed. Rev. Stat., vol. 1, p. 583.

Rev. Stat. 631, sec. 72.

SECTION XII.

LANDS OF AGRICULTURAL SOCIETIES.

All lands now held, or which may hereafter be held, by any agricultural society in this state, and permanently used for show grounds by any such society, shall be exempt from taxation during the time so used.

Laws of 1856, chap. 183; Ed. Rev. Stat., vol. 3, p. 767.

SECTION XIII.

DEMANDS SENT TO THIS STATE FOR COLLECTION NOT TO BE TAXED.

When any bond, mortgage, note contract, account or other demand, belonging to any person not being a resident of this state, shall be sent to this state for collection, or shall be deposited in this state for the same purpose, such property shall be exempt from taxation; and nothing contained in this chapter shall be construed to render any agent of such owner liable to be assessed or taxed for such property; but every such agent shall be entitled to have such property deducted from his assessment, upon making affidavit, before the assessors at the time appointed by them for reviewing their assessments, that such property belongs to a non-resident owner, and therein specifying his name and residence.

Ed. Rev. Stat., vol. 1, p. 379, sec. 3.

1 Rev. Stat. 419.

SECTION XIV.

EXEMPTION OF PLANK ROADS AND TURNPIKES.

Toll houses and other fixtures and all property belonging to any plank or turnpike road company, shall be exempt from assessment or taxation for any purpose whatever, until the surplus annual receipts of tolls on their respective

roads over necessary repairs and a suitable reserve fund for repairs and relaying of plank shall exceed seven per cent. per annum on the first cost of such road. In case of any disagreement between the assessors of any town, village, or city, and any such company concerning such exemption claimed, said company may appeal to the county judge of the county in which such assessment is proposed to be made, who shall, after due notice to the appealing party of such appeal, examine the books and vouchers of such company, and take such further proof as he shall deem proper, and shall decide whether such company is liable to taxation under this section, and his decision shall be final.

Ed. Rev. Stat. vol. 3 ; p. 582, sec. 4, chap. 87.

The above provision exempting property belonging to any plank or turnpike road company from assessment and taxation, "until the surplus annual receipts of tolls on their respective roads over necessary repairs and a suitable reserve fund for repairs and relaying of plank, shall exceed seven per cent. per annum on the first cost of such road," refers to the road which the corporation actually has, and operates at the time the assessment is made and the cost of that road.

People *ex rel.* Addison and E. Plank Road Co., v. Freeman, 3, Lansing 148.

A common law *certiorari* will be to review the determination of the county judge upon appeal from an assessment of the property of a plank road company under above section, although that act makes his decision "final." The writ lies in such cases for the purposes of ascertaining whether the inferior tribunal has kept within its jurisdiction.

People *ex rel.*, Addison and E. Plank Road Co. v. Freeman, 3 Lansing 148.

As to what personal property of corporations is exempt from local taxation, see post chap. 3, Corporations.

SECTION XV.

MINTS AND BRANCH MINTS OF THE UNITED STATES.

The mints and branch mints of the United States in the city of New York, the lands upon which such mints are built, the machinery, bullion, coin, etc., therein, are exempt.

Laws 1852, chap. 46.

SECTION XVI.

UNITED STATES ASSAY OFFICE.

The building, lands, machinery, bullion, metal or coin, nor upon the bars or ingots while the same is in the custody, possession or under the control of the officers of the assay office of the United States in the city of New York are exempt from taxation and assessment.

Laws 1853, chap. 406.

SECTION XVII.

PROPERTY EXEMPT FROM EXECUTION.

The following property is exempt, under the revised statutes, from levy and sale under an execution, and by the statute above quoted is exempt from taxation:

1. All spinning wheels, weaving looms and stoves, put up or kept for use, in any dwelling house; also, one sewing machine, with the appurtenances thereunto belonging;

2. The family bible, family pictures and school books, used by or in the family of such person; and books not exceeding in value fifty dollars, which are kept and used as part of the family library;

3. A seat or pew occupied by such person or his family in any house or place of public worship;

4. All sheep to the number of ten, with their fleeces, and

the yarn or cloth manufactured from the same; one cow, two swine, the necessary food for them; all necessary pork, beef, fish, flour and vegetables, actually provided for family use; and necessary fuel for the use of the family for sixty days.

5. All necessary wearing apparel, beds, bedsteads and bedding for such person and his family; arms and accoutrements, required by law to be kept by such person; necessary cooking utensils, one table, six chairs, six knives and forks, six plates, six tea-cups and saucers, one sugar dish, one milk pot, one tea pot and six spoons, one crane and its appendages, one pair of andirons and a shovel and tongs;

6. The tools and implements of any mechanic, necessary to the carrying on his trade, not exceeding twenty-five dollars in value.

2 vol. Ed. Rev. Stat., p. 380.

2 Rev. Stat., 367.

7. In addition to the articles now exempted by law from levy and sale under execution, there shall be exempted from such sale necessary household furniture and working tools, and team, professional instruments, furniture and library owned by any person being a householder or having a family for which he provides, to the value of not exceeding two hundred and fifty dollars, and in addition thereto there shall be exempt from such levy and sale the necessary food for said team for a period not exceeding ninety days, and a sewing machine; provided that such exemption shall not extend to any execution issued on a demand for the purchase money of such furniture, tools or team, or the food for said team, or professional instruments, furniture or library, sewing machine or the articles now enumerated by law.

6 vol. Ed. Rev. Stat., chap. 782.

Laws of 1866, p. 830.

8. Land set apart and a portion of which has been actually used for a family or private burying ground, shall not

be subject to levy and sale by any execution or other legal process whatever.

This exemption shall not extend to more than one-fourth of an acre of land, and on condition that the owner has recorded a description in the manner prescribed.

Laws of 1847, chap. 85, 4 Ed. Rev. Stat., p. 629.

What is exempt as a lot: *People ex rel. Academy of the Sacred Heart v. Commissioners of Taxes, &c., N. Y.*, 6 Hun., 109.

9. In addition to the property now exempt by law from sale under execution, there shall be exempt by law from sale on execution for debts hereafter contracted, the lot and buildings thereon, occupied as a residence and owned by the debtor, being a householder and having a family, to the the value of one thousand dollars. Such exemption shall continue after the death of such householder, for the benefit of the widow and family, some or one of them continuing to occupy such homestead until the youngest child become twenty-one years of age, and until the death of the widow. And no release or waiver of such exemption shall be valid unless the same shall be in writing, subscribed by such householder, and acknowledged in the same manner as conveyances of real estate are by law required to be acknowledged.

Law of 1850, chap. 260.

4 Ed. Rev. Stat., p. 632.

10. To entitle any property to such exemption, the conveyance of the same shall show that it is designed to be held as a homestead under this act, or if already purchased, or the conveyance does not show such design, a notice that the same is designed to be so held shall be executed and acknowledged by the person owning the said property, which shall contain a full description thereof, and shall be recorded in the office of the clerk of the county in which the said property is situate, in a book to be provided for that purpose, and known as the "Homestead Exemption Book." But no property shall by virtue of this act, be exempt from sale for non-payment of taxes, or as-

sessments, or for a debt contracted for the purchase thereof, or prior to the recording of the aforesaid deed or notice.

Laws 1850, chap. 250, sec. 2, 4th Ed. Rev. Stat., p. 632.

SECTION XVIII.

AN ACT TO RELIEVE THE SENECA NATION OF INDIANS FROM TAXES, &c.

No tax shall hereafter be assessed or imposed on either of said reservations, or on any part thereof, for any purpose whatever, so long as said reservations remain the property of the Seneca nation; and all acts of the legislature of this state conflicting with the provisions of this section, are hereby repealed.

Law 1857, chap. 45, sec. 4, 4 Ed. Rev. Stat., 406.

The above act exempting from taxation reservations belonging to the Seneca nation of Indians, was not intended to effect any of the provisions of the general law, declaring what property shall be liable to taxation, but merely exempts such reservations from taxation so long as they remain the property of that nation

People *ex rel.*, Erie Railway Co. v. Beardsley *et al.*, Assessors, &c., N. Y. Rep. 619, *id.*

SECTION XIX.

TONAWANDA BAND OF SENECA INDIANS EXEMPT FROM TAXATION.

No tax shall hereafter be assessed or imposed on any part of the said Tonawanda reservation, which shall be owned or occupied by the said Tonawanda band of Indians, for any purpose whatever, so long as the same remains the property of the said Tonawanda band of Indians; and all acts of the legislature of this state, conflicting with the provisions of this section, are hereby repealed.

Laws 1860, chap. 491, sec. 4, 4 Ed. Rev. Stat., 417.

SECTION XX.

HOUSE OF REST FOR CONSUMPTIVES EXEMPT.

All real estate now owned by the House of Rest for Consumptives, and in actual use for such purpose, a corporation existing under the laws of the state of New York is hereby exempted from all taxation, provided that said real estate so exempted shall not exceed in value the sum of one hundred thousand dollars.

Laws 1874, chap. 650, amending chap. 866, laws 1873.

SECTION XXI.

HOME FOR INCURABLES, WESTCHESTER COUNTY, EXEMPT.

All the real estate owned by the Home for Incurables, in the county of Westchester, shall be exempt from taxation so long as the same, or the income thereof, shall be used exclusively for the purposes for which the association was incorporated.

Laws 1873, chap 348.

SECTION XXII.

JEWISH THEOLOGICAL SEMINARY AND SCIENTIFIC INSTITUTION
EXEMPT.

The real estate, situated in Westchester County, in this state, now belonging to and actually occupied by the Jewish Theological Seminary and Scientific Institution, shall hereafter be exempt from local taxation, so long as it remains the property of that institution and occupied by it.

Laws 1873, chap. 358.

Exemption of Religious Society Hebrew Free School Association v. Mayor,
&c., of New York. 4 Hun. 446.

SECTION XXIII.

LAND AT ALBANY, UTICA AND CITY OF NEW YORK CEDED TO
THE UNITED STATES EXEMPT.

Laws 1873, chap. 195; chap. 320.

Land ceded to United States for light house purposes
exempt.

Laws 1874, chap. 49 and 432.

SECTION XXIV.

MEMBERS OF FIRE COMPANIES EXEMPT FROM TAXATION.

The members of any fire company organized under the provisions of this act, and situated within any incorporated village may be exempted from taxation to the amount of five hundred dollars on any village assessment for village purposes, and from highway poll tax, in addition to the exemptions now enumerated by law, and the real and personal property of any such company may be exempted from like village taxation, provided that at any general election, or at any special election called for that purpose, a majority of the legal voters of such village shall vote in favor thereof, and at any such election the vote shall be by ballot, and the ballots shall be indorsed "for" or "against exemption from taxation of the members of the fire company," and a similar ballot indorsed "for" or "against the exemption of the real and personal property of the fire company." Such election shall be held in the same manner and by the same officers as at a general election in said village.

Laws 1879, chap. 250, amending Laws 1873, chap. 397.

SECTION XXV.

EQUALIZATION OF TOWN ASSESSMENTS.

The board of supervisors of each county in this state at their annual meeting shall examine the assessment rolls of the several towns of their county for the purpose of ascertaining whether the valuations in one town or ward bear a just reduction to the valuations in all the towns or wards in the county ; and they may increase or diminish the aggregate valuations of real estates in any town or ward by adding or deducting such sum upon the hundred as may in their opinion be necessary to produce a just relation between all the valuations of real estates in the county ; but they shall in no instance reduce the aggregate valuations of all the towns or wards below the aggregate valuation thereof as made by the assessors.

1 R. S., 395, sec. 31.

CHAPTER III.

CORPORATIONS.

SECTION I. Companies Liable to Taxation.

- II. Assessment on Banks and Bank Stock.
- III. Taxation of Bank Stock; Shareholders to be Taxed same as Shareholders of National Bank Stock.
- IV. Foreign Corporations, Companies, etc., Joint Stock Associations engaged in Banking to Pay State Tax; to Make Returns and Pay Tax to Comptroller.
- V. Tax on Stockholders in Banks; to be Assessed where Bank is Located; Deduction in making Assessment.
- VI. Correct List of Stockholders to be kept in Bank for Inspection; Amount of Monies Used and Deposits; Collection of Tax; Duty of Bank as to Collection of Tax.
- VII. Property of Corporations, where Taxed.
- VIII. Officers to Deliver Statements to Assessors and to Comptroller.
- IX. Penalty.
- X. Suits Therefor.
- XI. Companies, How Assessed.
- XII. The Assessment, How Made.
- XIII. Application for Reduction.
- XIV. Oath of Individual Bankers.
- XV. List of Individual Bankers.
- XVI. Non-Resident Stockholders.
- XVII. Banks to Retain Dividends.
- XVIII. Savings Banks.
- XIX. Tax on Non-Resident Bankers.
- XX. Deposits in Savings Banks.
- XXI. Insurance Companies.
- XXII. Foreign Insurance Companies.
- XXIII. Tax on Life Insurance Companies; Amounts; Return to Treasurer and Comptroller; Misdemeanor to Neglect to Make Return; Action to Recover Tax; Lands of Companies to be Assessed where situated.
- XXIV. Capital Stock to be Taxed; President or Treasurer of every Co-operative, Joint-Stock Company to make Annual Report to Comptroller; Where Dividends have

not been made Treasurer and Secretary to Appraise Capital Stock ; Certificate of Appraisement to be sent to Comptroller.

- XXV. Comptroller to add Ten per centum of Tax in Case of Failure to Report for two successive years ; Comptroller to Report fact to Governor ; Annual Tax ; Amount.
- XXVI. When Tax to be Paid ; President or other officer of Insurance Companies to Report to Comptroller Semi-annually ; What Report to Contain ; Amount of Tax ; Fire or Marine Insurance Companies to pay Tax ; Amount.
- XXVII. Tax on Railroad, Canal, Steamboat and other Companies ; Rate of ; Tax under Section 6 to be paid Semi-annually ; Treasurer to send Comptroller Statement under Oath ; Lands and Real Estate to be taxed as heretofore, but Capital Stock Exempt ; Taxes to be Applied to Ordinary Expenses of the State.
- XXVIII. Corporations, Where to be Taxed.
- XXIX. An act to provide the organization and regulation of certain Business Corporations and where to be taxed.

SECTION I.

COMPANIES LIABLE TO TAXATION.

All moneyed or stock corporations deriving an income or profit from their capital, or otherwise, shall be liable to taxation on their capital, in the manner hereinafter prescribed.

1 Vol. Ed. Rev. Stat., p. 374.

1 Rev. Stat., 414.

SECTION II.

ASSESSMENT ON BANKS AND BANK STOCK.

No tax shall hereafter be assessed upon the capital of any bank or banking association organized under the authority of this state, or of the United States, but the stockholders in such banks and banking associations shall be assessed and taxed on the value of their shares of stock therein ; said shares shall be included in the valuation of personal property of such stockholder, in the as-

assessment of taxes at the place, town or ward where such bank or banking association is located, and not elsewhere, whether the said stockholder reside in said place, town or ward, or not, but not at a greater rate than is assessed upon other moneyed capital in the hands of individuals in this state. And in making such assessment there shall also be deducted from the value of such shares such sum as is in the same proportion to such value as is the assessed value of the real estate of the bank or banking association, and in which any portion of their capital is invested, in which said shares are held, to the whole amount of the capital stock of said bank or banking association. And provided further, that nothing herein contained shall be held or construed to exempt from taxation the real estate held or owned by any such bank or banking association; but the same shall be subject to state, county, municipal and other taxation to the same extent and rate, and in the same manner as other real estate is taxed.

Laws 1866, chap. 761, sec. 1, 6 Ed. Rev. Stat., 826.

People *ex rel.* Cagger v. Dolan, 36 N. Y. Rep., 59.

People *ex rel.* Kennedy v. Commissioners of Taxes, 35 N. Y. Rep., 423.

The People of the State of New York *ex rel.*, Williams v. Weaver *et al.*, U. S. Supreme Court R.

October Term 1879, opinion in Washington Law Reporter, March, 1880.

Pelton v. The Commercial National Bank of Cleveland, Ohio, October Term, 1879. Opinion in Washington Law Reporter, March 8, 1880.

Both Cases, see Otto's U. S. Supreme Court Rep.

Assessors of a town in which a bank is located have jurisdiction of such bank, and of the subject matter, the description, amount and value of its property liable to taxation; and if they erroneously assess it to the full amount and value of its capital, part of which is invested in United States bonds exempt from taxation, they act within their jurisdiction, and their error is a judicial one, which could be reviewed upon *certiorari*, but clearly cannot be in a collateral suit or proceeding.

Genesee Valley National Bank v. Supervisors of Livingston Co., 55 Barbour 223.

SECTION III.

TAXATION OF BANK STOCK—SHAREHOLDERS TO BE TAXED SAME
AS SHAREHOLDERS OF NATIONAL BANK STOCK.

The shareholders of any bank, banking association or corporation doing a banking business under the general banking law or a special charter of this state, shall be assessed and taxed with respect to their shares of stock, only at the same rate and place, to the same extent, and in the same manner as shareholders of national banks may be liable at the same time to be assessed and taxed by an authority of the state of New York; provided, however, that no debts shall be deducted from any such assessment of any person applying for the benefit of this act, which have been deducted from the assessment of other personal property of such person, and in making application for such deduction every person making the application shall make oath that he has not applied to have such debts deducted from any other assessments against him, and that no such deduction has been made.

It is hereby declared that the true intent and meaning of this act is to place and maintain shareholders of banks, associations and corporations aforesaid upon an equality, in the particulars in this act referred to with the shareholders of national banks organized under the act of Congress entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June third, eighteen hundred and sixty-four," and all acts and parts of acts inconsistent with the provisions hereof are hereby repealed.

Laws 1880, chap. 140.

People ex rel., Williams v. Board of Assessors of Albany, 2 Hun., 583.

SECTION IV.

FOREIGN CORPORATIONS, COMPANIES, OR JOINT-STOCK ASSOCIATIONS ENGAGED IN BANKING TO PAY STATE TAX—TO MAKE RETURNS AND PAY TAX TO COMPTROLLER.

Every corporation, company or joint-stock association created under the laws of any other state or country, and the managers or agents of every such corporation, company, or joint stock association, who receive deposits, loan money, sell bills of exchange or issue letters of credit, or in any other manner are engaged in business as bankers in this state, shall annually, on or before the first day of February in each year, pay to the comptroller a state tax of one-half of one per cent. on the average of all sums of money used or employed by them in this state during the year ending the preceding thirty-first day of December.

It shall be the duty of every corporation, company, joint stock association, and of the officers, managers or agents thereof, who, under the provisions of this act are liable to pay a state tax, to make return to the comptroller in writing on or before the first day of February in each year, of the state tax to which they are so liable, and of the deposits or sums of money used or employed respectively on which such tax is based, which return shall be verified by oath or affirmation, and for any failure or neglect to make such return or pay said tax, a penalty of ten per centum on the amount of tax due is hereby imposed; such penalty and the tax to be recovered by the people of this state, in an action to be brought in any court of competent jurisdiction, by the attorney-general at the instance of the comptroller.

Laws 1880, chap. 596, sec. 1 and 2.

People *ex rel.*, Trowbridge v. Commissioners of Taxes of N. Y., 4 Hun., 595.

People *ex rel.* P. M. S. S. Co. vs. Commissioners of Taxes, 5 Hun., 200.

J. P. Mack

SECTION V.

TAX ON STOCKHOLDERS IN BANKS; TO BE ASSESSED WHERE BANK IS LOCATED; DEDUCTION IN MAKING ASSESSMENT.

The stockholders in every bank, banking association or trust company, organized under the authority of this state, or of the United States, shall be assessed and taxed on the value of their shares of stock therein; said shares shall be included in the valuation of the personal property of such stockholders in the assessment of taxes at the place, city, town or ward where such bank, banking association or trust company is located, and not elsewhere, whether the said stockholder reside in said place, city, town or ward or not, but in the assessment of said shares, each stockholder shall be allowed all the deductions and exceptions allowed by law in assessing the value of other taxable personal property owned by individual citizens of this state, and the assessment or taxation shall not be at a greater rate than is made or assessed upon other moneyed capital in the hands of individual citizens of this state. In making such assessment there shall also be deducted from the value of such shares such sum as is in the same proportion to such value as is the assessed value of the real estate of the bank, banking association or trust company, and in which any portion of their capital is invested, in which said shares are held, to the whole amount of the capital stock of said bank, banking association or trust company; nothing herein contained shall be held or construed to exempt the real estate of banks, banking associations or trust companies from either state, county or municipal taxes; but the same shall be subject to state, county, municipal and other taxation, to the same extent and rate, and in the same manner according to its value, as other real estate is taxed.

Laws 1880, chap. 596, sec. 3.

Any moneyed or stock corporation deriving profit or income from its capital or otherwise shall add to the divi-

dends which shall be declared upon any stock owned by the state, or by any literary or charitable society or institution, a sum equal to the assessment for taxes paid upon an equal amount of the stock of such corporation not exempt from taxation.

Laws 1845, chap. 195, sec. 1.

SECTION VI.

CORRECT LIST OF STOCKHOLDERS TO BE KEPT IN BANK FOR INSPECTION—AMOUNT OF MONIES USED AND DEPOSITS—
COLLECTION OF TAX—DUTY OF BANK AS TO
COLLECTION OF TAX.

There shall be kept at all times in the office where the business of each bank, banking association or trust company, organized under the authority of this state, or of the United States, shall be transacted, a full and correct list of the names and residences of all the stockholders therein, and the number of shares held by each; and such list shall be subject to the inspection of the officers authorized to assess taxes during the business hours of each day, in which business may be legally transacted. The managers or agents of any corporation, company or joint-stock association mentioned in the first section of this act, shall keep at all times in the office where the business of such corporation, company or joint-stock association is transacted in this state, a full and accurate account of the monies used or employed, and of the deposits therein; and such account shall be subject to the inspection of the comptroller or of any clerk designated by him to inspect the same during business hours of any day on which business may be legally transacted.

When the owner of stock in any bank, banking association or trust company, organized under the laws of this state, or of the United States, shall not reside in the same place where the bank, banking association or trust company is located, the collector and county treasurer shall respectively have the same powers as to collecting the tax to be assessed by this act, as they have by law when the person assessed has removed from the town, ward, or county in which the assessment was made, and the county treasurer, receiver of taxes, or other officer authorized to receive such tax from the collector, may all or either of them have an action to collect the tax from the avails of the sale of his shares of stock, and the tax on the share or shares of said stock shall be and remain a lien thereon from the day when the property is by law assessed, till the payment of said tax, and if transferred after such day, the transfer shall be subject to such lien.

For the purpose of collecting the taxes to be assessed under sections three, four and five of this act, and in addition to any other law of this state, not in conflict with the constitution of the United States relative to the imposition of assessment and collection of taxes, it shall be the duty of every such bank, banking association or trust company, and the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholder as shall be necessary to pay any taxes assessed in pursuance of sections three, four and five of this act, until it shall be made to appear to such officer or officers that such taxes have been paid.

Laws 1880, chap. 596, secs. 4, 5 and 6.

SECTION VII.

PROPERTY OF CORPORATIONS WHERE TAXED.

The real estate of all incorporated companies liable to taxation, shall be assessed in the town or ward in which the same shall lie, in the same manner as the real estate of

individuals. All the personal estate of every incorporated company liable to taxation on its capital, shall be assessed in the town or ward where the principal office, or place for transacting the financial concerns of the company shall be; or if such company have no principal office, or place for transacting its financial concerns, then in the town or ward where the operations of such company shall be carried on. In the case of toll bridges, the company owning such bridge shall be assessed in the town or ward in which the tolls are collected; and where the tolls of any bridge, turnpike, or canal company are collected in several towns or wards, the company shall be assessed in the town or ward, in which the treasurer or other officer authorized to pay the last preceding dividend, resides.

1 Ed. Rev. Stat. p. 362; sec. 6.

1 Ed. Rev. Stat., 380, 390.

People ex rel. Oswego Canal Co. v City of Oswego, 6 Supreme Court, (Thompson & Cook) 673.

SECTION VIII.

OFFICERS TO DELIVER STATEMENTS TO ASSESSORS AND TO COMPTROLLER.

The following is the manner of taxing corporations as referred to in section 1:

The president, cashier, secretary, treasurer, or other proper officer of every such incorporated company shall, on or before the first day of July in each year, make and deliver to the assessors, or one of them, of the town or ward in which such company is liable to be taxed, according to the provisions of the sixth section of the second title of this chapter, a written statement, specifying:

1. The real estate, if any, owned by such company, the towns or wards in which the same is situated, and the sums actually paid therefor;

2. The capital stock actually paid in and secured to be paid in, excepting therefrom the sums paid for real estate,

and the amount of such capital stock held by the state and by any incorporated literary or charitable institution; and

3. The town or ward in which the principal office or place of transacting the financial business of such company is situated; or if there be no such principal office, the town or ward in which its operations are carried on, or in which it is liable to be taxed, under the provisions of this chapter.

1 Ed. Rev. Stat., p. 374; sec. 2.

1 Rev. Stat. 415.

The president or other proper officer of every such company, shall also deliver to the comptroller, on or before the first day of July in each year, a written statement, containing the same matters required by the foregoing section, to be specified in the statement to be delivered to the assessors. The statements required by this and the preceding section of this title shall be certified under oath of the said president, or other proper officer, to be in all respects just and true.

1 Ed. Rev. Stat., p. 375; sec. 3.

1 Rev. Stat. 415.

SECTION IX.

PENALTY.

If the statements above required, or either of them, shall not be furnished by any company to the assessors and to the comptroller, within thirty days after the time above provided, the company neglecting to furnish such statements, or either of them, shall forfeit to the people of this state, for each statement omitted to be furnished, the sum of two hundred and fifty dollars; and it shall be the duty of the comptroller to furnish the attorney-general with an account of all companies that shall neglect to render such lists, that he may prosecute for the penalties hereby imposed.

Id., sec. 4.

SECTION X.

SUITS THEREFOR.

If any company, that shall be prosecuted for any such penalty, shall pay the costs of prosecution and furnish the statement required, the comptroller, if he shall be satisfied that the omission was not wilful, may, in his discretion, discontinue such suit.

Id., sec. 5.

SECTION XI.

COMPANIES, HOW ASSESSED.

The assessors shall enter all incorporated companies from which such statements shall have been received by them, and the property of such companies, and the property of all other incorporated companies, liable to taxation in their respective towns. in their assessment rolls, in the following manner :

1. They shall insert in the first column of their assessment rolls the names of each incorporated company in their respective towns or wards, liable to taxation on its capital, or otherwise ; and under its name they shall specify the amount of its capital stock paid in, and secured to be paid in, the amount paid by such company for real estate then belonging to such company, wherever the same may be situated, the amount of all surplus profits or reserved funds, exceeding ten per cent. of their capital after deducting therefrom the said amount of said real estate, and the amount of its stock, if any, belonging to the state, and to incorporated literary and charitable institutions.

2. In the second column they shall enter the quantity of real estate owned by such company, and situated within their town or ward ; and in the third column the actual value thereof, estimated as in other cases.

3. In the fourth column they shall enter the amount of the capital stock of every incorporated company paid in and secured to be paid in, and of all surplus profits or reserved funds as aforesaid; after deducting the sums paid out for all the real estate of such company, wherever the same may be situated, then belonging to it, and the amount of stock, if any, belonging to the people of this state, and to incorporated literary and charitable institutions.

1 Rev. Stat., 415.

1 Ed. Rev. Stat., 375, sec. 5.

The provisions of the fifteenth section of the second title of this chapter shall be, and are hereby extended to the incorporated companies in the two preceding sections named; and the president, secretary or other proper officer may make the affidavit required by said section.

Id., sec. 8.

The amount of taxes assessed on all incorporated companies liable to taxation, shall be set down by the board of supervisors in the fifth column of the corrected assessment roll, and shall form a part of the monies to be collected by the collector.

1 Ed. Rev. Stat., 376 sec. 15.

1 Rev. Stat., 417.

See Form No. 4.

The rule of assessing property of corporations for taxation is, to assess the actual value of the capital paid in or secured to be paid in, after deducting the amount actually paid out for real estate, and that which is invested in stock of other corporations and taxable as such, or which is exempt from taxation, leaving its real estate to be assessed like other real estate in the town or ward where it is situated.

People *ex rel.*, Citizens Gas Light Co. v. Board of Assessors, 39 N. Y. Rep., 81.

SECTION XII.

THE ASSESSMENT, HOW MADE.

The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment roll, or as shall have been exempted by law, together with its surplus profits or reserved funds, exceeding ten per cent. of its capital, after deducting the assessed value of its real estate, and all shares of stock in other corporations actually owned by such company, which are taxable upon their capital stock under the laws of this state, shall be assessed at its actual value, and taxed in the same manner as the other personal and real estate of the county.

Laws 1857, chap. 456, 3 Ed. Rev. Stat., p. 373.

SECTION XIII.

APPLICATION FOR REDUCTION.

Corporations may make application for a reduction of the assessment in the same manner as individuals.

Laws 1857, chap. 536, sec. 3, 3 Ed. Rev. Stat., p. 374.

SECTION XIV.

OATH OF INDIVIDUAL BANKERS.

Every individual banker doing banking business under the laws of this state, is hereby required to declare upon oath before the assessor the amount of capital invested in such banking business, and each one hundred dollars of such capital for the purpose of this act, and for the purpose of taxation, shall be held and regarded as one individual share in such banking business, and such shares are hereby declared to be personal property. If such banker have partners, he shall declare upon oath before the assessor the number of shares held by each of them in such

banking business, ascertained as above provided, and the shares so held by any partner shall be included in the valuation of his taxable property in the assessment of all taxes levied in the town, school district or ward where such individual banker is located, and not elsewhere; and such individual banker shall pay the same and make the amount so paid a charge in his accounts with such partners; and if such individual banker have no partners he shall be held to be the sole owner of all the shares in such business of banking, and the same shall be included in the valuation of his personal property in the assessment of all taxes levied in the town, school district or ward where his bank is located, and not elsewhere.

Laws of 1866, chap. 761, sec. 2. 6 Ed. Rev. Stat., p. 827.

Patchin v. Ritter, 27 Barbour, Supreme Court Rep., 34.

Residence of Individual Banker, see *Miner v. Village of Fredonia*, 27 N. Y. 155.

SECTION XV.

LIST OF INDIVIDUAL BANKERS.

There shall be kept at all times in the office where the business of such bank or banking association, organized under the authority of this state or of the United States, shall be transacted, a full and correct list of the names and residences of all the stockholders therein, and of the number of shares held by each; and such list shall be subject to the inspection of the officers authorized to assess taxes during the business hours of each day in which business may be legally transacted.

Laws of 1866, chap. 761, sec. 3; 6 Ed. Rev. Stat. p. 827.

SECTION XVI.

NON-RESIDENT STOCKHOLDERS.

When the owner of stock in any bank or banking association organized under the laws of this state, or of the United States, shall not reside in the same place where the

bank or banking association is located, the collector and county treasurer shall, respectively, have the same powers as to collecting the tax to be assessed by this act, as they have by statute, when the person assessed has removed from the town, ward or county in which the assessment was made; and the county treasurer, receiver of taxes, or other officer authorized to receive said tax from the collector, may all or either of them have an action to collect the tax from the avails of the sale of his shares of stock, and the tax on the share or shares of said stock shall be and remain a lien thereon till the payment of said tax.

Laws of 1866, chap. 761, sec. 5 ; 6 Ed. Rev. Stat. p. 828.

SECTION XVII.

BANKS TO RETAIN DIVIDENDS.

For the purpose of collecting such taxes, and in addition to any other law of this state, not in conflict with the constitution of the United States, relative to the imposition of taxes, it shall be the duty of every such bank or banking association, and the managing officer or officers thereof, to retain so much of any dividend or dividends belonging to such stockholder as shall be necessary to pay any taxes assessed in pursuance of this act, until it shall be made to appear to such officer that such taxes have been paid.

Laws of 1866, chap. 761, sec. 6 ; 6 Ed. Rev. Stat. p. 828.

SECTION XVIII.

SAVINGS BANKS.

The privileges and franchises granted by the legislature of this state to savings banks or institutions for savings, are hereby declared to be personal property, and liable to taxation as such, in a town or ward where they are located, to an amount not exceeding the gross sum of their surplus earned (after deducting the amount of such surplus

invested in United States securities), and the officers of such banks or institutions may be examined on oath by assessors as to the amount of such surplus and securities; and the property of such banks and institutions shall be liable to seizure and sale for the payment of all taxes assessed upon them for such privileges and franchises.

Laws 1867, chap. 861, sec.
7 Ed. Rev. Stat., p. 196.

SECTION XIX.

TAX ON NON-RESIDENT BANKERS.

All persons and associations doing business in the state of New York, as merchants, bankers, or otherwise, either as principals or partners, whether special or otherwise, and not residents of this state, shall be assessed and taxed on all sums invested in any manner in said business, the same as if they were residents of this state; and said taxes shall be collected from the property of the firms, persons or associations to which they severally belong.

Laws 1855, chap. 37.
3 Ed. Rev. Stat., p. 355.

SECTION XX.

DEPOSITS IN SAVINGS BANKS, ETC.

The deposits in any bank for savings which are due to depositors, and the accumulations in any life insurance company organized under the laws of this state, so far as the said accumulations are held for the exclusive benefit of the assured, shall not be liable to taxation, other than the real estate and stocks which may be owned by such bank or company, and which are now liable to taxation under the laws of the state.

Laws 1857, chap. 456, sec. 4.
3 Ed. Rev. Stat., p. 373.

SECTION XXI.

INSURANCE COMPANIES.

Any mutual life insurance company in this state, incorporated previously to the passage of the general insurance law on the tenth day of April, 1849, shall be subject to taxation in the same manner as if it were incorporated under said general law, with a capital of one hundred thousand dollars as required by the sixth section of the said general law.

Laws 1853, chap. 469.

4 Ed. Rev. Stat., p. 242.

SECTION XXII.

FOREIGN INSURANCE COMPANIES.

The capital of any foreign insurance company, so determined and certified, shall be subject to taxation the same as the capital of fire insurance companies, organized under the laws of this state, to be levied, assessed and collected, as prescribed by the laws of this state, at such place in this state as such foreign insurance company shall have its principal office.

Laws 1871, chap. 888, sec. 7.

The term foreign insurance company, as used in this act, includes any company, corporation, association, partnership or individual of any foreign government doing fire insurance business in this state, whether incorporated or not.

Laws 1871, chap. 888, sec. 10.

People *ex rel.*, Parker Mills v. Commissioners of Taxes, 23 N. Y. Rep., 242.

In assessing the property of an insurance company for taxation, it is the duty of the assessors to estimate the contingent liability of the company upon outstanding policies by the usual rules for determining such liability, and

deduct it from the nominal values of the stock, etc., in order to arrive at its actual value.

The People *ex rel.*, Glens Fall Insurance Co. v. Ferguson, 38 N. Y. Rep. 89.

A foreign corporation, doing business in this state, is to be regarded as non-resident; and it is to be assessed and taxed upon all moneys in any manner invested in this state, in the same manner as though it were a resident corporation; and the securities deposited with the comptroller are personal property liable to taxation.

British Commercial Life Insurance Co. v. Commissioners of Taxes, 31 New York R., 32.

1 Keyes, 303, Smith v. International Life Insurance Co., 35 Howard, P. R. 128.

A foreign life insurance company, doing business in this state, is properly taxable in the city where the principal place of business or office of the company is situated.

Id.

SECTION XXIII.

TAX ON LIFE INSURANCE COMPANIES—AMOUNT—RETURN TO TREASURER AND COMPTROLLER—MISDEMEANOR TO NEGLECT OR REFUSE TO MAKE RETURN—ACTION TO RECOVER TAX—LANDS OF COMPANIES TO BE ASSESSED WHERE SITUATED.

SECTION 1. Every insurance company incorporated under the laws of this state shall annually, on or before the first day of February, pay to the treasurer of this state, as a tax on its corporate franchise or business in this state, a sum equal to one per centum upon the gross amount of premiums, interest and other income, exclusive of rents, received by such company during the year ending the preceding thirty-first day of December, from persons residing in this state or investments represented by or based upon property situated in this state.

SEC. 2. Every such insurance company shall, annually, on or before the first day of February, make a return to

the treasurer and comptroller of the state, signed and sworn to by its president and secretary, giving the total amount of premiums, interest and other income, exclusive of rents, received by such company during the year ending the preceding thirty-first day of December, from persons residing in this state, or investments represented by or based upon property situated in this state.

SEC. 3. If any officer of any life insurance company, required by the preceding section to make and execute a return, shall refuse or willfully neglect to make or execute the same, such officer shall be guilty of a misdemeanor, and any such officer, who in return shall make a willfully false statement, shall be subject to the pains and penalties of perjury. All taxes unpaid when due by such company under this act may be collected by action brought in the supreme court in the name of the people of the state by the attorney-general at the instance of the comptroller, and in such action the court may issue an injunction restraining the further prosecution of the business of the corporation named therein until such tax due and unpaid, together with interest and the costs of the action are paid, and until the return required by this act is made.

SEC. 4. The lands and real estate of life insurance companies shall continue to be assessed and taxed where situated for state, city, town, county, village, school, or other local purposes, but the personal property of said companies and shares of stock therein shall hereafter be exempt from assessment or taxation except as in this act prescribed.

SECTION XXIV.

CAPITAL STOCK TAXED—PRESIDENT OR TREASURER OF EVERY CORPORATION, JOINT-STOCK COMPANY TO MAKE ANNUAL REPORT TO COMPTROLLER—WHERE DIVIDEND HAS NOT BEEN MADE—TREASURER AND SECRETARY TO APPRAISE CAPITAL STOCK—CERTIFICATE OF APPRAISEMENT TO BE SENT TO COMPTROLLER.

1. Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its capital stock, as provided in section three of this act, to make report in writing to the comptroller, annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint-stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock, during the year ending as aforesaid, shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November, in each year, in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of such company upon which no dividend or dividends have been made or declared, or upon the par value of which the dividend or dividends made or declared

amounted to less than six per centum, at its actual value in cash, not less, however, than the average price which said stock sold for during said year; and when the same shall have been so truly estimated and appraised, they shall forthwith forward to the comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same; provided, that if the comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the estate thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled, may within ten days appeal therefrom to the board of equalization, which board, on such appeal, shall affirm or correct the account so settled by the comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of taxes, penalties and interest as due on said account, as settled by the comptroller, be deposited with the state treasurer.

Laws 1880, chap. 542, sec. 1.

SECTION XXV.

COMPTROLLER TO ADD TEN PER CENTUM TO TAX, IN CASE OF FAILURE TO REPORT—FAILURE TO REPORT FOR TWO SUCCESSIVE YEARS—COMPTROLLER TO REPORT FACT TO GOVERNOR—ANNUAL TAX—AMOUNT.

If the said officers of any such corporation, joint-stock company or association, shall neglect or refuse to furnish the comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement, and oath or affirmation, as the case may be, as required by the first section of this act, it shall be the duty of the comptroller of the state to add ten

per centum to the tax of said corporation for each and every year for which such report or certificate of appraisement and oath or affirmation were not so furnished, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of any such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first section of this act for two successive years, the comptroller shall report the fact to the governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the attorney-general to take proceedings, in the name of the people of this state, to declare the charter of said corporation, joint-stock company, or association forfeited, and its chartered privileges at an end; and for such intentional failure, the charter, chartered privileges, corporate rights and franchises of every such corporation, joint-stock company or association shall cease, end and be determined.

Every corporation, joint-stock company or association whatever, now or hereafter incorporated under any law of this state, or now or hereafter incorporated by any other state or country and doing business in this state, except savings banks, and institutions for savings, life insurance companies, banks, and foreign insurance companies, and manufacturing corporations, carrying on manufacture within this state, shall be subject to and pay a tax into the treasury of the state annually, to be computed as follows: If the dividend or dividends, made or declared by such corporation, joint-stock company or association, during any year, ending with the first Monday in November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividend so made or declared, or if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of

one and one-half mills upon each dollar of a valuation of the said capital stock made in accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock, as for instance, common and preferred stock, and upon one of said stocks, a dividend or dividends amounting to six or more than six per centum upon the par value thereof has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter mill for each one per centum of dividend made or declared upon the capital stock, upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto, tax shall be charged at the rate of one and one-half mills upon each dollar of a valuation, made also in accordance with the provisions of the first section of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum.

Laws 1880, chap. 542, sec. 2 and 3.

SECTION XXVI.

WHEN TAX TO BE PAID—PRESIDENT OR OTHER OFFICER OF INSURANCE COMPANIES TO REPORT TO COMPTROLLER SEMI-ANNUALLY—WHAT REPORT TO CONTAIN—AMOUNT OF TAX :
FIRE OR MARINE INSURANCE COMPANIES TO PAY TAX—AMOUNT.

It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the state, within fifteen days from the first day of January in each and every year.

Hereafter it shall be the duty of the president, secretary,

or other proper officer of each and every insurance company or association incorporated by or under any law of this state except life insurance companies, and purely mutual beneficial associations, whose fund for the benefit of members, their families, or heirs, is made up entirely of contributions of their members, and the accumulated interest thereon, to make report in writing to the comptroller, semi-annually upon the first days of August and February in each year, setting forth the entire amount of premiums received on business done in this state by such company or association during the six months ending the preceding first days of July and January, whether the said premiums were received in money or in the form of notes, credits or any other substitute for money, and every such corporation or association shall pay into the state treasury at the date, aforesaid, a tax of eight-tenths of one per centum upon the gross amount of said premium; provided, that said report shall be made under oath or affirmation, and it shall be the duty of the comptroller of the state to add ten per centum to the account of any company or association, whose officers shall neglect or refuse for a period of thirty days to make the said report, or to pay into the state treasury the tax imposed by this section. Every fire or marine insurance company organized under the laws of any other state or country, and doing business in this state, and every person, partnership, corporation, or company doing a fire or marine insurance business in this state, shall pay into the treasury on the first day of February and August in each year, a tax of eight-tenths of one per centum on their gross premiums received by them on business transacted in this state during the six months preceding the first day of January and July. And every such company, person, partnership, or corporation, or the agents and officers thereof in this state shall make report in writing to the comptroller semi-annually upon the first day of February and August in each year, setting forth the entire amount of premiums received.

SECTION XXVII.

TAX ON RAIL ROAD, CANAL, STEAMBOAT, EXPRESS, TELEGRAPH, AND OTHER COMPANIES—RATE OF—TAX UNDER SECTION 6 TO BE PAID SEMI-ANNUALLY—TREASURER TO SEND COMPTROLLER STATEMENT UNDER OATH—LANDS AND REAL ESTATE TO BE TAXED AS HERETOFORE, BUT CAPITAL STOCK EXEMPT—TAXES TO BE APPLIED TO ORDINARY EXPENSES OF THE STATE.

In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every other corporation, joint-stock company or association now or hereafter incorporated by or under any law of this state, or now or hereafter incorporated by any other state or country and doing business in this state, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe line or transportation route or line, or elevated railway, or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other state, and doing business in this state, and every express company, palace car or sleeping car company, incorporated or unincorporated, doing business in this state, shall pay to the state treasurer for the use of the state, a tax of five-tenths of one per centum upon the gross earnings in this state of said corporation or company, for tolls, transportation, telegraph or express business transacted in this state, and in arriving at the gross earnings of any express, palace car or sleeping car company, or freight line, there shall first be deducted the expenses paid to any common carrier for transportation upon such business within this state. Nothing in this section contained shall be held to apply to any street surface railroad company.

The tax imposed under section six of this act shall be paid semi-annually, upon the first days of February and August of each year, the first payment to be made on the first day of August, A. D. eighteen hundred and eighty, and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer, or other proper officer of the corporations, joint-stock companies or associations therein referred to, to transmit to the comptroller a statement under oath or affirmation, of the amount of the gross receipts of the said associations, corporations or joint-stock companies derived from all sources during the preceding six months, and if any such corporation, joint-stock company or association shall neglect or refuse, for a period of thirty days after such tax becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the state as other taxes are recoverable by law, from such corporation, joint-stock company or association.

The lands and real estate of the various corporations, joint-stock companies and associations mentioned in this act shall continue to be assessed and taxed where situated, but the capital stock and personal property of said corporations, joint-stock companies and associations shall hereafter be exempt from assessment or taxation, except as in this act prescribed, and no tax on gross receipts, except as in this statute authorized, shall be imposed or charged against any street horse-railroad company.

The taxes imposed by this act, and the revenue derived therefrom shall be applicable to the payment of the ordinary and current expenses of the state, and if any corporation, joint-stock company or association shall neglect or refuse to pay any tax by this act required to be paid, the same may be sued for in the name of the people of the state, and recovered in any court of competent jurisdiction, in an action to be brought by the attorney-general at the instance of the comptroller.

Laws 1880, chap. 542, sec. 6, 7, 8 and 9.

As to taxing railroads, see *People ex rel., Buffalo and State Line R. R. Co. v. Barker*, 48 N. Y. 70, and *State Line R. R. Co. v. Supervisors of*

Erie, 48 N. Y., 73.

People *ex rel.*, Utica and Black River R. R. Co. v. Shields, 6 Hun., 556.

Rolling stock of Railroad see Randall v. Elwell, 52 N. Y., 521.

SECTION XXVIII.

CORPORATIONS, WHERE TO BE TAXED.

The real estate of all incorporated companies liable to taxation shall be assessed in the town or ward in which the same shall lie in the same manner as the real estate of individuals.

All the personal estate of every incorporated company liable to taxation on its capital shall be assessed in the town or ward where the principal office or place for transacting the financial concerns of the company shall be; or if such company have no principal office or place for transacting its financial concerns then in the town or ward where the operations of such company shall be carried on.

In the case of toll bridges, the company owning such bridge shall be assessed in the town or ward in which the tolls are collected; and where the tolls of any bridge, turnpike or canal company are collected in several towns or wards, the company shall be assessed in the town or ward in which the treasurer or other officer authorized to pay the last preceding dividend resides.

1 R. S., p. 390, s. 6.

SECTION XXIX.

AN ACT TO PROVIDE FOR THE ORGANIZATION AND REGULATION OF CERTAIN BUSINESS CORPORATIONS—WHERE TO BE TAXED.

Every corporation organized under this act shall be taxed on all of its property, except its real estate in the town, city or village where its principal business office is situated, and on its real estate in the town, city or village where such real estate is situated, shall be taxed therein.

Laws 1875, chap. 611, sec. 30.

As to what corporations are exempt from taxation, see *ante*, chap. 2, s.

CHAPTER IV.

ON RENTS AND DEBTS OWING NON-RESIDENTS.

- SECTION 1.** Assessors to Ascertain Amount of Reserve Rents in Leases; Amount of Assessment; When to be Assessed against Tenant.
- II. Board of Supervisors to Review and Correct Assessments in Certain Cases.
- III. To be Assessed at same Rate and Extent as Personal Estate.
- IV. Collection of Taxes on Rents.
- V. Debts Due Non-Residents.
- VI. Agents of Non-Resident Creditor to report to County Treasurer.
- VII. Penalty for Not Making Report.
- VIII. Abstract to be Sent to Assessors.
- IX. Name and Amount to be Entered on Assessment Roll.
- X. Unpaid Taxes How Collected.
- XI. Warrants How Made Out.
- XII. Lien of Warrant.
- XIII. Sheriff How Proceeded Against for Neglect to Return.
- XIV. Proceedings When Warrant Returned Unsatisfied.
- XV. Expenses of Treasurer and Assessor How Paid.

SECTION I.

ASSESSORS TO ASCERTAIN AMOUNT OF RESERVED RENTS IN LEASES—AMOUNT OF ASSESSMENT—WHEN TO BE ASSESSED AGAINST TENANT.

It shall be the duty of the assessors of each town and ward, while engaged in ascertaining the taxable property therein, by diligent inquiry, to ascertain the amount of rents reserved in any leases in fee, or for one or more lives, or for a term of years exceeding twenty-one years, and chargeable upon lands within such town or ward, which rent shall be assessed to the person or persons entitled to receive the same, as personal estate, which it is hereby

declared to be, for the purpose of taxation under this act, at a principal sum, the interest of which at the legal rate per annum shall produce a sum equal to such annual rents; and in case such rents are payable in any other thing except money, the value of such annual rents in money shall be ascertained by the assessors, and the same shall be assessed in manner aforesaid. And in case the name or names of the person or persons entitled to receive the rent reserved upon any lot or parcel of land on which any rent is reserved, as provided in this section, cannot be ascertained by the assessors, then the same shall be assessed against the tenant or tenants in possession of said lots as rents reserved.

Laws 1846, chap. 327, sec. 1, as amended laws 1873, chap. 809; 3 ed. Rev. Stat., p. 348.

City of Buffalo v. Le Couteux, 15 N. Y. Rep. 451.

People *ex rel.* Youmans v. Supervisors of Delaware Co., 47 How. Pr. 24.

SECTION II.

BORD OF SUPERVISORS TO REVIEW AND CORRECT ASSESSMENTS IN CERTAIN CASES, &C.

The assessor shall in all cases of assessments, under the above provision, specify in the assessment rolls each rent so assessed, and the value fixed upon articles, other than money, in which such rents are payable, and whenever assessments are made against any person in any town or ward in which he does not reside, the board of supervisors of the county to which such assessments are returned, shall have in all respects as full power and authority, and it shall be their duty, to correct such assessments as to the valuation of the rents, and as to the gross amount for which such person shall be assessed, as the assessors have as to a resident of a town; and such board of supervisors may reduce the amount of such assessments in their respective towns or wards of

the county, in proportion or otherwise, as the nature of the corrections require, to make such assessments just.

Laws 1858, chap. 357.
3 Ed. Rev. Stat., p. 376.

The provisions of the revised statutes relative to the assessment and collection of taxes are not repealed by those of chapter 327, of laws of 1846, (ante sec. 1) relating to the assessment of rents reserved in leases in fee, or by those of the amendatory act of 1858, (ante sec. 2); but are applicable to the assessment of such rents.

Cruger v. Dougherty, 1 Lansing Rep., 464.
Same case affirmed, 43 N. Y. Rep., 107.

An assessment for rents reserved must, under the acts of 1846 and 1858, be made "to the person or persons entitled to receive the same," and *each* rent so assessed must be specified in the assessment roll.

id.

SECTION III.

TO BE ASSESSED AT SAME RATE AND EXTENT AS PERSONAL ESTATE.

The board of supervisors in each county shall assess the taxes to be raised for town, county and state purposes upon the person or persons entitled to receive such rents within the town or ward where the lands upon which such rents are reserved and situated, in the same manner, and to the same extent, as any personal estate of the individuals of such town, and in case the name or names of the person or persons entitled to receive the rents upon any lot or parcel of land has not been ascertained by the assessor, then the board of supervisors shall assess the tax authorized by the act hereby amended to be levied and collected of the tenant or tenants in possession of the lands upon which said rent is reserved; said tenant to be reimbursed for the

tax upon the rent reserved so collected of him, in the manner provided in section three of this act.

Laws of 1846, chap. 327, sec. 2.

As amended laws 1873, chap. 809.

SECTION IV.

COLLECTION OF TAX ON RENTS.

If such tax shall not be paid, the collector or the person authorized by law to receive said tax, shall levy the same by distress and sale of the goods and chattels of the person against whom the same is assessed within the town or ward of such collector, in the same manner as if such person was an inhabitant of such town or ward. And if no sufficient goods or chattels belonging to the person against whom the same is assessed can be found in said town or ward, then in that case it shall be the duty of the collector to levy and collect the same by distress and sale of the goods and chattels of the tenant or lessee in possession of the demised premises on which said rent is reserved; and the tenant, lessee in possession, or person in possession, of said premises may abate from the amount of any rent reserved upon said premises either due or to grow due thereon, the amount of tax so paid by or collected of him upon the rents so reserved, with interest on the amount so paid from the time of the payment of said tax; and the warrant for the collection of said tax, issued by the board of supervisors to the collector of any town in which said tax shall be assessed, shall direct the collection of the same in accordance with the provisions of this section.

Laws, 1846, chap. 327, sec. 3 as amended by laws 1873, chap. 809.

3 Ed. rev. stat. 348.

Should the collector not be able to collect such tax, he should return the same to the county treasurer as in other cases.

SECTION V.

DEBTS DUE NON-RESIDENTS.

All debts owing by inhabitants of this state to persons not residing within the United States, for the purchase of any real estate, shall be deemed personal property, within the town or county where the debtor resides, and as such shall be liable to taxation in the same manner and to the same extent as the personal estate of citizens of this state.

Laws 1851, chap. 371, sec. 1.

3 Ed. rev. stat. p. 351.

People ex. rel. Parker Mills v. Commissioners of Taxes, 22 N. Y. rep., 242.

SECTION VI.

AGENTS OF NON-RESIDENT CREDITOR TO REPORT TO COUNTY TREASURER.

If there shall reside in any county of this state an agent of any non-resident creditor having debts owing to him of the description mentioned in the first section of this act, he shall, on or before the twenty-fifth day of July in each year, furnish to the county treasurer of such county where such debtor resides, the true and accurate amount of debts of the description mentioned in the first section of this act, which were owing on the first day of January preceding, to the principal of such agent, in each town in such county, which shall be verified by the oath of such agent taken before any officer authorized to administer oaths.

Laws 1851, chap. 371, sec. 2.

3 Ed. Rev. Stat., p. 351.

The assessors are not concluded by the verified statements of agents of non-resident creditors as to the amounts due such creditors, but they may, in the exercise of their general powers and duties, go further and make inquiry for themselves from the debtors and others, and thus ascertain

and determine, to their own satisfaction, the amount of such indebtedness from solvent debtors of the town due to such non-resident creditors, and their mistakes or errors in respect to such amount cannot be reviewed on a proceeding to compel the county treasurer to issue his warrant for the collection of the taxes thereon.

People *ex rel.*, Stephens v. Halsey, 53 Barb., 547; same case affirmed, 37 N. Y. Rep., 344.

SECTION VII.

PENALTY FOR NOT MAKING REPORT.

Any such agent who shall refuse or neglect, without good or sufficient cause, to furnish such list, shall forfeit the sum of five hundred dollars to the use of each county in which such debtor resides, to be sued for by the treasurer of each county in his name of office, and to be recovered upon proof that the principal of such agent had debts owing to him by inhabitants of such county, of the description mentioned in the first section of this act, and that the existence of such debts was known to such agent.

Id., sec. 3.

3 Ed. Rev. St., p. 351.

SECTION VIII.

ABSTRACT TO BE SENT TO ASSESSORS.

The county treasurer, on receiving such statement, shall immediately make out and transmit to the assessors of the several towns of his county in which any such debtor resides, an abstract or copy of so much of such statement as relates to the town of such assessor, with the name of such creditor.

Laws 1851, chap. 371, sec. 4.

3 Ed. Rev. Stat., p. 351.

SECTION IX.

NAME AND AMOUNT TO BE ENTERED ON ASSESSMENT ROLL.

The assessors on receiving such abstract or statement from the county treasurer, shall, within the time in which they are now required by law to complete their assessment roll, enter thereon the name of such non-resident debtor, and the aggregate amount due him in such town, on the first day of January preceding, in the same manner other personal property is entered on said roll.

Laws 1851, chap. 371, sec. 5.
3 Ed. Rev. Stat., p. 351.

SECTION X.

UNPAID TAXES HOW COLLECTED.

When it shall appear by the return of any collector, made according to law to a county treasurer, that any tax imposed on a debt owing to a person not residing in the United States, remains unpaid, such county treasurer shall, after the expiration of twenty days from the return of such collector, issue his warrant to the sheriff of any county in this state, where any debtor of such non-resident creditor may reside, commanding him to make of the goods and chattels and real estate of such non-resident, the amount of such tax to be specified in a schedule annexed to the said warrant, together with his fees and the sum of one dollar for the expense of issuing such warrant, and to return the said warrant to the treasurer issuing the same, and to pay over to him the money which shall be collected by virtue thereof, except the said sheriff's fees, by a certain day therein to be specified, within sixty days of such warrant.

Laws 1857, chap. 371, sec. 6.
3 Ed. Rev. Stat. 352.

SECTION XI.

WARRANTS, HOW MADE OUT.

The taxes upon several debts owing to the non-resident shall be included in one warrant, and the taxes upon several debts owing to different non-residents may be included in the same warrant; and where several non-residents are included in the same warrant, the sheriff shall be directed to levy the sums specified in the schedule thereto annexed, upon the personal and real property of the non-residents respectively, opposite to whose names, respectively, such sums shall be written, together with the sum of fifty cents upon each non-resident, for the expense of such warrant.

Id. sec. 7.

The statute (ante section 8) peremptorily requires the county treasurer to issue a warrant to the sheriff for the collection of taxes against non-residents, after the expiration of twenty days from the time of receiving a proper return, showing such taxes remaining unpaid. It is a mere ministerial duty, and he has no discretion to exercise, and is invested with no judicial functions whatever in regard to it, but he may be compelled by *mandamus* to perform it on the application of any citizen of the town in which the tax is assessed.

People *ex rel.* Stephens v. Halsey, 37 N. Y. Rep., 344.
53 Barb., 547.

SECTION XII.

LIEN OF WARRANT.

Such warrant shall be a lien upon, and shall bind the real and personal estate of the non-residents against whom the same shall be issued, from the time an actual levy shall be made upon any property by virtue thereof; and the sheriff to whom such warrant shall be directed, shall proceed upon the same, in all respects with the like effect and in the same manner as prescribed by law in respect to executions against property, issued upon judgments rendered

in the supreme court, and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner.

Laws 1851, chap. 371, sec. 8.

3 Ed. Rev. Stat., 352.

SECTION XIII.

SHERIFF, HOW PROCEEDED AGAINST FOR NEGLECT TO RETURN WARRANT.

In case of the neglect of any sheriff to return such warrant according to the direction therein, or to pay over any money collected by him in pursuance thereof, he shall be proceeded against in the supreme court, by attachment, in the same manner and with the like effect, as for similar neglects in reference to an execution issued out of the supreme court in a civil suit, and the proceedings thereon shall be the same in all respects.

Laws 1851, chap. 371, sec. 9.

3 Ed. Rev. Stat., 352.

SECTION XIV.

PROCEEDINGS WHEN WARRANT RETURNED UNSATISFIED.

If any such warrant shall be returned unsatisfied in whole or in part, the county treasurer, or in the city and county of New York the comptroller therein, under the direction of the board of supervisors may obtain an order from a judge of the supreme court, or a county judge of the county to which said warrant was issued requiring such non-resident, or any person having property of such non-resident, or indebted to him, to appear and answer concerning the property of such non-resident, and the same remedies and proceedings may be had in the name of the county treasurer or comptroller, before the officer granting such order and with the like effect as are provided by the

statute, in case of a judgment debtor after the return of an execution against him, unsatisfied in whole or in part.

Laws 1851, chap. 371, sec. 10.
3 Ed. Rev. Stat., 352.

SECTION XV.

EXPENSES OF TREASURER AND ASSESSOR HOW PAID.

The expenses of county treasurers and such compensation as their boards of supervisors shall allow them for their services in executing this act, shall be county charges; and the expenses and charges for the services of assessors under this act shall be town charges, and audited and paid as such.

Laws 1851, chap. 371, sec. 11.
3 Ed. Rev. Stat., 353.

CHAPTER V.

ASSESSMENTS HOW MADE.

- SECTION I. Assessment Districts ; Inquiry to be made.
- II. To Prepare Assessment Roll.
 - III. Trustee, Guardian, etc.
 - IV. Lands of Non-Residents How Assessed.
 - V. Unoccupied Lands, where Taxed.
 - VI. Survey of Non-Resident Lands.
 - VII. Rule of Valuation ; Qualification.
 - VIII. Property omitted, How Taxed ; Duty of Supervisors ;
Amount to be deducted from other Taxes.
 - IX. Correcting Tax.
 - X. Roll, When to be Completed ; Notice.
 - XI. Contents of Notice ; Meaning of Person.
 - XII. Penalty for Neglect.
 - XIII. Inspection of Roll.
 - XIV. Reduction of Valuation ; Oath.
 - XV. Assessment Roll to be Sworn to.
 - XVI. Roll to be Delivered to Supervisor.
 - XVII. Neglect of Assessors.
 - XVIII. Duty of Board of Supervisors.
 - XIX. Supervisors to Examine Assessment Roll.
 - XX. Lands of Non-Residents ; Tax to be Set Down ; Aggregate Valuation ; Corrected Assessment Roll.
 - XXI. Blank Forms and Instructions ; Distribution thereof.
 - XXII. Review and Correction of Illegal, Erroneous or Unequal Assessments.
 - XXIII. Assessors to apportion Valuation of Property of Delaware and Hudson Canal Company among the Several School Districts ; To be in writing ; Supervisor to make same in case of Neglect of Assessors.

SECTION I.

ASSESSMENT DISTRICTS—INQUIRY TO BE MADE.

The assessors chosen in each town or ward, may divide the same by mutual agreement, into convenient assessment districts, not exceeding the number of assessors in such ward or town.

1 Ed Rev. Stat., p. 363, sect. 7.

1 Rev. Stat. 390.

Between the first days of May and July, in each year, they shall proceed to ascertain, by diligent inquiry, the names of all the taxable inhabitants, in their respective towns or wards, and also all the taxable property, real or personal, within the same.

1 Ed. Rev. Stat., p. 363, sec. 8.

1 Rev. Stat. 390.

Assessors cannot make an assessment on or after 1st of July.

Clark *vs.* Norton 3 Lansing R. 484.

Assessments must be made by the first of July, and of property and persons in respect to the liability as it exists upon that day. An individual not liable upon that day cannot be placed upon the assessment roll thereafter, nor can a person whose name is properly upon the roll be assessed for property subsequently acquired. After the deposit of the roll for examination the assessors cannot add names thereto, or add to the assessments of individuals other property, or change the character of the property assessed. Where the roll is completed the duty of the assessors is fully performed, except in the matter of a review of the assessment as made and as permitted by statute. Although one purchasing property after the completion of the roll agrees to pay the tax thereon, this confers no jurisdiction upon the assessors to change the assessment, nor does it operate as a waiver of the legal rights of the purchaser. It is a matter resting in contract between the parties and is to be enforced in the usual way.

Clark *v.* Norton *et al.*, 49 N. Y. Rep., 243.

People *v.* Supervisors of Chenango, 1 Kernan, 563.

Mygatt *v.* Washburn, 15 N. Y., 316.

The trustees of villages whose duty it shall be by this act as assessors must within sixty days after the annual meeting proceed and assess, upon the taxable inhabitants and corporation and property liable to assessment and taxation within the village, such sum as they may deem

necessary, besides funds received and estimated to be received from other sources, to defray the ordinary expenditures of the village for the current year, not to exceed the amount fixed for that purpose in the detailed statement of the trustees presented at the annual meeting; also any sum directed at an annual election to be raised as an extraordinary expenditure for a special purpose for that year; also the amount to be raised as a highway tax, and also the poll tax.

Laws 1880, chap. 291, title 6, sec. 2.

Within 20 days after an extraordinary expenditure they must assess therefor in the same manner.

Id. sec. 3.

SECTION II.

ASSESSORS TO PREPARE ASSESSMENT ROLL.

They shall prepare an assessment roll in which they shall set down in four separate columns, and according to the best information in their power:

1. In the first column, the names of all the taxable inhabitants, in the town or ward, as the case may be;

2. In the second column, the quantity of land to be taxed to each person;

3. In the third column, the full value of such land, according to the definition of the term land, as given in the first title of this chapter.

4. In the fourth column, the full value of all the taxable personal property owned by such person, after deducting the just debts owing by him.

(See Finn. No. 4.)

1 R. S. 391

1 Edm. R. S., p. 363, sec. 9.

Assessors act judicially in making their assessment, and an action does not lie founded on an error in their conclusion.

Buffalo and State Line R. R. Co. v. Supervisors of Erie, 48 N. Y., 93.

Darwin v. Strickland, 57 N. Y., 492.

Upon common-law *certiorari* to review the decision of assessors in refusing to strike off assessment, the court may properly examine and decide upon the correctness of their decision on the facts presented to them.

People *ex rel.*, Western R. R. Co. v. Assessors of Albany, 40 N. Y. Rep. 154.

SECTION III.

TRUSTEE, GUARDIAN, ETO.

Where a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such, with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment; and he shall be assessed for the value of the real estate held by him, in such representative character, at the full value thereof, and for the personal property held by him in such representative character, deducting from such personal property the just debts due from him in such representative character.

1 Ed. Rev. Stat., p. 363, sec. 10.

1 Rev. Stat., 391.

People *ex rel.*, Western R. R. Co. v. Assessors of Albany, 40 N. Y., 154.

Residents of this state who are trustees of a sinking fund, raised and owned by a foreign corporation, but invested and controlled by the trustees, may properly be assessed as such trustees, at the place of their residence to the full value of the fund.

People *ex rel.*, Western Railroad Co. v. Assessors of Albany, 40 N. Y. Rep., 154.

In assessing a trust fund against a trustee for taxation, the debts owing and chargeable upon such fund should be deducted from its full value, and the balance only assessed.

Id.

SECTION IV.

LANDS OF NON-RESIDENTS, HOW ASSESSED.

The lands of non-residents shall be designated in the same assessment roll, but in a part thereof separate from the other assessments, and in the manner prescribed in the two following sections:

1 Ed. Rev. Stat., p. 364, sec. 11.

1 Rev. Stat., 391.

If the land to be assessed be a tract which is subdivided into lots, or be part of a tract which is so subdivided, the assessors shall proceed as follows:

1. They shall designate it by its name, if known by one, or if it be not distinguished by a name, or the name be unknown, they shall state by what other lands it is bounded;

2. If they can obtain correct information of the subdivisions, they shall put down in their assessment rolls, and in a first column, all the unoccupied lots in their town or ward, owned by non-residents, by their numbers alone and without the names of their owners, beginning at the lowest number and proceeding in numerical order to the highest.

3. In a second column, and opposite to the number of each lot, they shall set down the quantity of land therein liable to taxation.

4. In a third column, and opposite to the quantity, they shall set down the valuation of such quantity.

5. If such quantity be a full lot, it shall be designated by the number alone; if it be a part of a lot, the part must be designated by boundaries, or in some other way, by which it may be known.

1 Ed. Rev. Stat., p. 364, sec. 12.

1 Rev. Stat., 391.

If the land so to be assessed be a tract which is not subdivided, or if its subdivisions cannot be ascertained by the assessors, they shall proceed as follows:

1. They shall enter in their roll the name or boundaries thereof, as above directed, and certify in the roll that such tract is not subdivided, or that they cannot obtain correct information of the subdivisions, as the case may be.

2. They shall set down in the proper column the quantity and valuation as above directed.

3. If the quantity to be assessed be the whole tract, such a description by its name or boundaries will be sufficient; but if a part only is liable to taxation, that part or the part not liable, must be particularly described.

5. If any part of such tract be settled and occupied by a resident of the town or ward, the assessors shall except such part from their assessment of the whole tract, and shall assess it as other occupied lands are assessed; and if they cannot otherwise designate such parts, they shall notify the supervisors of the town, who shall cause a survey, and two manuscript maps to be made, for the purpose of ascertaining the situation and quantity of every such unoccupied part.

5. One of those maps shall be delivered by the supervisor to the county treasurer, to be by him transmitted to the comptroller, and the other shall be delivered in like manner to the assessors.

6. The assessors shall then complete the assessment of the tract, and shall deposit the map in the town clerk's office, for the information of future assessors. And the expense of making such survey and maps shall be immediately repaid to the supervisor, out of the county treasury; and shall be added by the board of supervisors to the tax on the tract, distinguishing it from the ordinary tax.

1 Ed. Rev. Stat., p. 364, sec. 13.

1 Rev. Stat., 392.

Rolling stock of a railroad company, *held*, to be personal property.

Randall v. Elwell, 52 N. Y. Rep., 521.

SECTION V.

UNOCCUPIED LANDS, HOW ASSESSED.

Unoccupied lands, not owned by a person residing in the ward or town where the same are situated, shall be denominated "lands of non-residents," and shall be assessed as hereinafter provided.

1 ed. Rev. Stat. p. 362, sec. 3.

1 Rev. Stat. 389.

SECTION VI.

SURVEY OF NON-RESIDENT LANDS.

Whenever it shall be deemed necessary by the assessors of any town, to have an actual survey made, to ascertain the quantity of any lot or tract of non-resident lands which is divided by the town line, they shall notify the supervisor who shall cause the necessary surveys to be made at the expense of the town.

1 Ed. Rev. Stat. p. 365, sec. 14.

1 Rev. Stat. 392.

SECTION VII.

RULE OF VALUATION—QUALIFICATION.

All real and personal estate liable to taxation, shall be estimated and assessed by the assessors at its full and true value, as they would appraise the same in payment of a just debt due from a solvent debtor.

1 Ed. Rev. Stat. p. 365, sec. 17.

1 Rev. Stat., 393.

As amended by laws 1851, ch. 176.

The preceding section shall be followed in all assessments made under this chapter, except where the assessors shall be specially required by law to observe a different rule.

Id. sec. 18.

No action will lie to recover back from a county or municipal corporation money collected or received upon, or for a tax based upon, an erroneous assessment, if the assessors had acquired jurisdiction of the persons against whom it was made.

Genesee Valley National Bank v. Supervisors of Livingston, 53 Barbour, 223.

If the assessors had acquired no jurisdiction of such person, an action will lie against them; but, when they have such jurisdiction, no suit can be maintained against any person for the imposition or collection of a tax erroneously imposed.

Id.

SECTION VIII.

PROPERTY OMITTED, HOW TAXED—DUTY OF SUPERVISORS— AMOUNT TO BE DEDUCTED FROM OTHER TAXES.

Whenever it shall appear to the assessors of any town, city or ward in this state that any land or property legally liable to taxation in said town, city or ward has been omitted in the assessment roll of the next preceding year, it shall be the duty of said assessors, upon the application of any three tax payers in said town, city or ward who shall consider themselves aggrieved, to enter said land or property in the assessment roll of the current year, at the valuation of the year in which said tax was omitted, or, if not then valued, at the valuation of the preceding year, in a separate line from the valuation of the current year.

Laws 1865, chap. 453, sec. 1.

6 Ed. Rev. Stat., p. 487.

People *ex rel.* Oswald v. Goff, 52 N. Y., 434.

The board of supervisors of the county or city in which said town, city or ward is situated, at the next annual meeting, upon the petition of the assessors of said town, city or ward that such land or property was not taxed on the preceding year, shall proceed to levy a tax on the same at the rate per cent of the tax imposed upon land or property

in said town, city or ward on the preceding year; also, upon the petition of the assessors of any town, city or ward ~~that~~ any land or property in any town, city or ward in the state has been omitted in the assessment roll of the current year, they shall insert the same in the assessment roll of said town, city or ward at the valuation of the preceding year, and tax the same at the rate per cent of the current year.

Id. sec. 2.

The whole amount of tax levied upon land or property omitted in the tax levy of the preceding year shall be deducted from the aggregate of taxation to be levied upon said town, city or ward for the current year, before such tax is levied, and shall be collected by the same authority and in the same manner as the ordinary taxes of the current year are collected.

Laws 1865, chap. 453, sec. 3.
6 Ed. Rev. Stat., p. 487.

SECTION IX.

CORRECTING TAX.

Whenever it shall be made to appear to the supervisors of any county, by the petition of the assessors of any town in said county, or otherwise, that any land or property legally liable to taxation in said town was, by any mistake in transcribing or copying the assessment roll of the preceding year, been placed on the assessment roll annexed to the warrant delivered to the collector at a valuation less than that actually appearing upon the original assessment roll signed by the assessors, said board of supervisors shall proceed to levy tax on the same upon a valuation equal to the difference between the actual valuation made by the assessors and the amount at which, by such mistake, it was

placed upon such roll, and at the rate of per cent of the tax imposed upon land or property in said town in the year in which said mistake occurred.

Law 1868, chap. 575, 7 Ed. Rev. Stat., 319.

SECTION X.

ROLL, WHEN TO BE COMPLETED—NOTICE.

The assessors shall complete the assessment rolls on or before the first day of August in every year, and shall make out one fair copy thereof, to be left with one of their number. They shall also forthwith cause notices thereof to be put up at three or more public places in their town or ward.

1 Ed. Rev. Stat., p. 365, sec. 19.

1 Rev. Stat., 393.

The persons acting as assessors in villages shall, on completing the assessment roll, give ten days notice, by posting notices in five public places in the village, stating that they will in the village, at a place and time stated, meet to hear and determine all complaints as to such roll. They shall have power and authority at such time to correct such roll as to them shall seem necessary. After the roll shall have been thus submitted and corrected if necessary, they shall file the same and a copy thereof with the clerk of the village.

Laws 1870, chap. 291, title 6, sec. 3.

The statute requires the assessors to ascertain and determine the persons and property within their respective towns liable to assessment, between the first days of May and July in each year, and to complete their roll by the first day of August, and keep it for inspection until the third Tuesday in August, when, on complaint of any person aggrieved, they have power to reduce the valuation or strike out an assessment; but it gives no power to add names or property after the first day of July, or to strike

from the roll after the first day of August, except as authorized on the day of review.

Clark v. Norton, 3 Lansing, 484.

58 Barb., 434; affirmed 49 N. Y. R., 243.

Same case, affirmed, 49 N. Y. Rep., 246.

People v. Supervisors of Chenango, 1 Kernan, 563.

Mygatt v. Washburn, 15 N. Y. Rep., 316.

A substantial compliance with the statute in the measures preliminary to the taxation of persons and property, in all matters which are of the substance of the procedure, and designed for the protection of the taxpayer, is a condition precedent to the legality and validity of the tax.

For the purpose of deposit for inspection, the assessment roll is to be completed on or before the first of August, and after that time the assessors have no jurisdiction over the persons of tax-payers, the roll, or the subject-matter of the assessment for the current year, save for the purpose of reviewing the assessments already made and verifying the roll after such review. For the purpose of verification and delivery to the supervisor, the roll cannot be completed until after the time fixed for its final review and correction, to wit, the third Tuesday of August. An affidavit of the assessors thereto, made prior to that time, is a nullity, and where the defect appears upon the face of the paper by the date of the jurat, it confers no jurisdiction upon the board of supervisors to impose a tax upon persons or property named therein, or to sign a warrant to the collector, and the want of jurisdiction in the board of supervisors is thus disclosed upon the face of the paper, the warrant furnishes no protection to the collector.

Westfall v. Preston, 49 N. Y. Rep., 349.

Van Rensselaer v. Whitbeck, 3 Selden, 517.

SECTION XI-

CONTENTS OF NOTICE—MEANING OF "PERSON."

Such notices shall set forth that the assessors have completed their assessment roll, and that a copy thereof is left

with one of their number at a place to be specified therein, where the same may be seen and examined by any person interested, until the third Tuesday in August, and that on that day the assessors will meet, at a time and place also to be specified in such notice, to review their assessments. On the application of any person considering himself aggrieved, it shall be the duty of the said assessors, on such day, to meet at the time and place specified, and hear and examine all complaints in relation to such assessment that may be brought before them; and they are hereby empowered and it shall be their duty, to adjourn from time to time, as may be necessary, to hear and determine, in accordance with the rule prescribed by section fifteen of said title two, such complaints. But in the several cities of this state, the notices required by this section may conform to the requirements of the respective laws regulating the time, place and manner for revising assessments in said cities in all cases where a different time, place and manner is prescribed by said laws from that mentioned in this act.

1 Ed. Rev. Stat., p. 365, sec. 20

1 Rev. Stat., 393.

See Form No. 3.

The term "person or persons" in the above section include corporations.

Laws 1857, chap. 536, sec. 3; 3 Ed. Rev. Stat., p. 374.

Assessors have no jurisdiction or power on the day appointed for the review of their completed roll, to assess persons and property not previously assessed and entered on the roll. The power to review or modify assessments on that day extends only to those against which complaint is made. As to non complainants, the roll, as completed on the first day of August, is final as to persons, property and valuation.

Clark v. Norton, 58 Barb., 434; 3 Lansing Rep., 484.

The giving of the notice, as prescribed in the above section, is essential to the validity of the tax, it being one of the things to be done by the assessors to obtain jurisdiction over the subject. The full time required by statute must be given or the proceeding will be void.

Wheeler v Mills, 40 Barb., 644.

SECTION XII.

PENALTY FOR NEGLECT.

If the assessors shall willfully neglect to hold the meeting specified in the last preceding section, each assessor so neglecting shall be liable to a penalty of twenty dollars, to be sued for and recovered before any court having jurisdiction thereof, by the supervisor of the town, for the use of the poor of the same town; and in case of such neglect to meet for review, any person aggrieved by the assessment of the assessors may appeal to the board of supervisors, at their next meeting, who shall have power to review and correct such assessment.

Laws of 1851, chap. 176; 3 Ed. Rev. Stat. p. 350.

Assessors are not personally liable for errors or mistakes in the assessment of property, or of persons in respect to their property, when they have jurisdiction and act within the scope of their powers. If they exceed their power and act without authority and in contravention of the statute prescribing and regulating their duties, they are civilly liable to any person injured by their action.

Clark v. Norton *et al.*, 49 N. Y. Rep., 243.

Barhyte v. Shepherd, 35 N. Y. Rep., 238.

Mygatt v. Washburn, 15 N. Y., 316.

An assessment of a person over whom they have no jurisdiction, or after, by lapse of time, their power as assessors has ceased, is a wrongful act for which they are responsible in damages to the injured party.

Id.

SECTION XIII.

INSPECTION OF ROLL.

The assessor with whom such assessment roll is left, shall submit the same, during the twenty days specified in

such notice, to the inspection of all persons who shall apply for that purpose.

1 Ed. Rev. Stat., p. 366, sec. 21.

1 Rev. Stat., 393.

SECTION XIV.

REDUCTION OF VALUATION—OATH.

Whenever any person on his own behalf, or on behalf of those whom he may represent, shall apply to the assessors of any town or ward to reduce the value of his real and personal estate, as set down in the assessment roll, it shall be the duty of such assessors to examine such person under oath touching the value of his or their said real or personal estate; and after such examination, and such other supplementary evidence, under oath, as shall be presented by the party or person aggrieved, they shall fix the value thereof at such sum as they may deem just, under the rule prescribed by section 17 of this title; but if such person shall refuse to answer any question as to the value of his real or personal estate, or the amount thereof, or present sufficient supplementary evidence, under oath, to justify a reduction, the said assessors shall not reduce the value of such real or personal estate. The examination so taken shall be written, and shall be subscribed by the person examined, and shall be filed in the office of the town clerk of the town or city in which such assessment shall be made; and any person who shall willfully swear false on such examination before the assessors, shall be deemed guilty of willful and corrupt perjury. It shall also be the duty of the assessors, whenever the valuation fixed by them, after such examination, shall exceed that sworn to by the aggrieved party or person, to indorse on the written examination, the words, "Disagreed to by the undersigned assessors, under the rule prescribed for making assessments, by section fifteen, article two, title

two, chapter thirteen, part one of the Revised Statutes, and in view of the obligations imposed by the deposition and oath, subscribed and made on the completion of the assessment roll, to which this disagreement refers." It shall be the duty of the assessors on the same occasion, to furnish the aggrieved party or person a duplicate copy of the before mentioned written examination, together with the indorsement of disagreement aforesaid, duly signed.

Laws 1857, chap. 536, sec. 6.
3 Ed. Rev. Stat., p. 374.

The assessors of the several towns and wards of this state, shall have power to administer oaths to any person applying to them, under the provisions of the above section.

Laws 1851, chap. 176, sec. 7.

A common-law writ of *certiorari* may be allowed, upon the relation of an individual tax payer, to review and correct items alleged to have been illegally included in the tax levy of his town.

People *ex rel.* Haskins *v.* Supervisors of Westchester Co., 8. Abbot, N. S., 277.
Same case, 57 Barbour, 377.

Although an application to assessors for the correction of an assessment, merely asks to have it struck from the roll, yet, if the facts disclosed show that it ought not to be stricken off but should be reduced, it is the duty of the assessors to make the reduction.

People *v.* Assessors of Albany, 40 N. Y. Rep., 152

SECTION XV.

ASSESSMENT ROLL TO BE SWORN TO.

When the assessors, or a majority of them, shall have completed their roll, they shall severally appear before one

of the justices of the town or city in which they shall reside, and shall severally make and subscribe before such justice, an oath, in the following form :

We, the undersigned, do severally depose and swear that we have set down, in the foregoing assessment roll, all the real estate situated in the (town or ward, as the case may be,) according to our best information ; and that, with the exception of those cases in which the value of the said real estate has been changed by reason of proof produced before us, we have estimated the value of the said real estate at the sums which a majority of the assessors have decided to be the full and true value thereof, and at which they would appraise the same in payment of a just debt due from a solvent debtor; and also that the said assessment roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in such roll, over and above the amount of debts due from such persons respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full and true value thereof, according to our best judgment and belief.

Which oath shall be written on said roll, signed by the assessors, and certified by the justice, and shall be in place of the official certificate now required by law; and every assessor who shall willfully swear false in taking and subscribing said oath, shall be deemed guilty of, and liable to the penalties of willful and corrupt perjury.

Laws 1851, chap. 176, sec. 8.

3 Ed. Rev. Stat., p. 350.

Bellinger v. Gray, 51 N. Y., 610.

National Bank of Chemung v. City of Elmira, 6 Lansing, 116.

Westfall v. Gere, 49 N. Y., 349.

Bradley v. Ward, 58 N. Y., 401.

SECTION XVI.

ROLL TO BE DELIVERED TO SUPERVISOR.

The roll, thus certified, shall, on or before the first day of September in every year, be delivered by the assessors

of each ward, in the city of New York, to the clerk of the city, and by the assessors of every other town or ward, to the supervisor thereof, who shall deliver the same to the board of supervisors at their next meeting.

1 Ed. Rev. Stat., p. 366, sec. 27.

1 Rev. Stat., 394.

A departure by assessors from the standard fixed by statute for estimating the value of property placed upon the assessment roll cannot be corrected upon *certiorari*, nor can their failure to assess the property of a corporation, as required, be so corrected. The court may reverse the assessment as made, and direct a reassessment; but after the roll has been delivered to the board of supervisors and the power of the assessors over it has ceased, a *certiorari* should not be allowed, and if allowed, should be quashed, even after return made.

The People *ex rel.* Samuel Marsh, Jr. *v.* Delaney, *et al.*, 49 N. Y. Rep., 655.

SECTION XVII.

NEGLECT OF ASSESSORS.

If any assessor shall neglect, or from any cause omit to perform his duties, the other assessors, or either of them, of the town or ward, shall perform such duties, and shall certify to the supervisors with their assessment roll, the name of such delinquent assessor, stating therein the cause of such omission.

1 Ed. Rev. Stat., p. 366, sec. 30.

1 Rev. Stat., 394.

If any assessor shall willfully refuse or neglect to perform any of the duties required of him by this chapter, he shall forfeit, to the people of this state, the sum of fifty dollars.

Id. sec. 29.

SECTION XVIII.

DUTY OF BOARD OF SUPERVISORS.

The board of supervisors of the several counties, at every annual meeting, shall transmit to the comptroller the names and places of abode of the town clerks and assessors, in their respective counties, who shall have willfully refused or neglected to perform the duties required of them in this chapter; and the comptroller shall thereupon give notice to the district attorneys of the proper counties, to the end that they may prosecute such delinquent town clerks and assessors, for the penalties incurred by them.

1 Ed. Rev. Stat., p. 379, sec. 2.

1 Rev. Stat., 419.

SECTION XIX.

SUPERVISORS TO EXAMINE ASSESSMENT ROLL.

The board of supervisors of each county in this state, at their annual meeting, shall examine the assessment rolls of the several towns in their county, for the purpose of ascertaining whether the valuations in one town or ward, bear a just relation to the valuations in all the towns or wards in the county; and they may increase or diminish the aggregate valuations of real estates, in any town or ward, by adding or deducting such sum upon the hundred as may, in their opinion, be necessary to produce a just relation between all the valuations of real estates in the county; but they shall, in no instance, reduce the aggregate valuations of all the towns and wards, below the aggregate valuation thereof, as made by the assessors.

1 Ed. Rev. Stat., 367.

1 Rev. Stat., 395.

SECTION XX.

LANDS OF NON-RESIDENTS—TAX TO BE SET DOWN—AGGREGATE
VALUATION—CORRECTED ASSESSMENT ROLL.

The board of supervisors shall make such alterations in the descriptions of the lands of non-residents, as may be necessary to render such descriptions conformable to the provisions of this chapter; and if such alterations cannot be made, they shall expunge the descriptions of such lands, and the assessments thereon, from the assessment rolls.

1 Rev. Stat., 395.

1 Ed. Rev. Stat., 367.

They shall also estimate and set down in a fifth column, to be prepared for that purpose, in the assessment rolls, opposite to the several sums set down as the valuations of real and personal estate, the respective sums in dollars and cents, rejecting the fractions of a cent, to be paid as a tax thereon

Id.

They shall also add up and set down the aggregate valuations of the real and personal estates in the several towns and wards as corrected by them; and shall cause their clerk to transmit to the comptroller, by mail, a certificate of such aggregate valuations, showing separately, the aggregate amount of real and personal estate in each town or ward, as corrected by them.

1 Ed. Rev. Stat., 367.

1 Rev. Stat., 395.

The boards of supervisors of the several counties in this State, shall cause the corrected assessment roll of each town or ward in their respective counties, or a fair copy thereof, to be delivered to the collector of such town or ward on or before the fifteenth day of December in each year.

Id.

Delay to deliver roll and warrant to collector does not necessarily vitiate the warrant.

Bradley v. Ward, 58 N. Y., 401.

A city ordinance taxing express companies doing business in the city, whose business extended beyond the limits of the state, *held*, constitutional.

Osborne v. Mobile, 16 Wallace U. S. S. C. R., 479.

The board of supervisors of any county, except New York and Kings, may by a vote of two-thirds of all the members elected thereto, on the recommendation of the county court of such county, correct any manifest, clerical or other error in any assessment or returns made by any town officers to such board, or which shall properly come before such board for their action, confirmation or review, and upon the order of such court, made on application and notice, such board shall refund to such person the amount collected from the person aggrieved, of any tax illegally or improperly assessed or levied.

Laws 1871, chap. 695.

SECTION XXI.

BLANK FORMS AND INSTRUCTIONS—DISTRIBUTION THEREOF.

The comptroller shall, from time to time, at his discretion, transmit blank forms of assessment rolls, and of returns of unpaid taxes, to the several county treasurers in this state; together with such instructions as he shall think useful, for the purpose of enforcing the uniform and proper execution of this chapter.

1 Ed. Rev. Stat., p. 380, sec. 12.

1 Rev. Stat. 420.

The county treasurer shall distribute such of the said forms and instructions, as shall have been intended for the use of assessors, among the town clerks, in their respective counties, who shall deliver the same to the assessors in their respective towns. The county treasurer shall also transmit or deliver a copy of such forms and instructions to each of the assessors in any city in his county.

Id. Sec. 13.

SECTION XXII.

REVIEW AND CORRECTION OF ILLEGAL, ERRONEOUS OR UNEQUAL ASSESSMENTS.

SEC. 1. A writ of *certiorari* may be allowed by the supreme court on the petition, duly verified, of any person or corporation assessed and claiming to be aggrieved, to review an assessment of real or personal property for the purpose of taxation made in any town, ward, village or city of this state, when the petition shall set forth that the assessment is illegal, specifying the grounds of the alleged illegality, or is erroneous by reason of over-valuation, or is unequal in that the assessment has been made at a higher proportionate valuation than other real or personal property on the same roll by the same officers, and that the petitioner is or will be injured by such illegal, erroneous or unequal assessment. When the alleged illegality, error or inequality affects several persons in the same manner who are assessed upon the same roll, they may unite in the same petition, and in that case the writ may be allowed and the proceedings authorized by this act had in behalf of all such petitioners.

SEC. 2. Such writ shall only be allowed by a justice of the supreme court in the judicial district or at a special term of the court in the judicial district in which the assessment complained of was made, and shall be made returnable at a special term in said district. The writ shall not be granted unless application therefor shall be made within fifteen days after the completion and delivery of the assessment roll, and notice thereof given as provided in this act. A writ of *certiorari* allowed under this act shall not stay the proceedings of the assessors or other officers to whom it is directed, or to whom the assessment roll may be delivered to be acted upon according to law.

SEC. 3. The court or justice granting the writ shall prescribe in the writ the time within which a return thereto must be made, which shall not be less than ten days, and may

extend such time. The assessors or other officers making a return to such writ shall not be required to return the original assessment roll or other original papers acted on by them, but it shall be sufficient to return certified or sworn copies of the roll or other papers, or of such portions thereof as may be called for by such writ. And the return may concisely set forth such other facts as may be pertinent and material to show the value of the property assessed on the roll, and the grounds for the valuation made by the assessing officers, and the return must be verified.

SEC. 4. If it shall appear by the return to such writ that the assessment complained of is illegal, erroneous or unequal for any of the reasons alleged in the petition, the court shall have power to order such assessment, if illegal, to be stricken from the roll, or if erroneous or unequal, to order a reassessment of the property of the petitioner, or the correction of such assessment, in whole or in part, in such manner as shall be in accordance with law, or as shall make it conform to the valuations and assessments applied to other real or personal property in the same roll, and secure equality of assessment. If, upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or may appoint a referee to take such evidence as the court may direct, and report the same to the court, and such testimony shall constitute a part of the proceedings upon which the determination of the court shall be made.

SEC. 5. A new assessment, or correction of an assessment made by order of the court, shall have the same force and effect as if it had been so made by the proper assessing officers within the time originally prescribed by law for making such assessment. Disobedience to a writ or order in any proceeding under this act may be punished by the court as for a contempt.

SEC. 6. Costs shall not be allowed against assessors or other officers whose proceedings may be reviewed under this act, unless it shall appear to the court that they acted

with gross negligence, in bad faith, or with malice. If the writ shall be quashed, or the prayer of the petitioner denied, costs shall be awarded against the petitioner, but the costs shall not in any case exceed the costs and disbursements taxable in an action upon the trial of an issue of fact in the supreme court.

SEC. 7. Appeal may be taken by either party from an order, judgment or determination under this act as from an order, and shall be heard and determined in like manner. All issues and appeals in any proceedings instituted under this act shall have preference over all other civil actions and proceedings in all courts.

SEC. 8. If final judgment shall not be given in time to enable the assessors or other officers to make a new or corrected assessment for the use of the board of supervisors at their annual session, and it shall appear from said judgment that said assessment was illegal, erroneous or unequal, then there shall be audited and allowed to the petitioner, and included in the next year's tax levy of said town, village or city, and paid to the petitioner the amount, with interest thereon, from the date of payment, in excess of what the tax should have been as determined by such judgment or order of the court.

SEC. 9. All assessment rolls, when finally completed and verified by the assessors, shall, in towns, on or before the first day of September, and in incorporated villages and cities at the time prescribed by their respective charters or laws applicable to them, be delivered to the town, village or city clerk, or other officer, to whom such rolls are or may be required by law to be delivered, and there to remain with such clerk or other officer for a period of fifteen days for public inspection. The assessors or other officers who complete and verify the assessment roll shall, after they have delivered the same to the said town, village or city clerk or other officer, forthwith give public notice by posting the same in at least three of the most public places in said town, village or city, or by publishing the same in one or more

newspapers published therein, that such assessment roll has been finally completed, the officer to whom the same has been delivered and the place where the same will be open to public inspection. The fifteen days from which to complete the time within which the application for the writ of *certiorari* can be made under this act shall be the time when said public notice is first given.

SEC. 10. This act shall not be construed to repeal or abridge any other right or remedy given to review an assessment by any law applicable to any city or incorporated village, or by the charters thereof.

Laws 1880, chap. 269.

Newman v. Supervisors of Livingston Co., 1 Lansing, 476.

Wilson v. Mayor of New York, 4 E. D. Smith, 375.

Cruger v. Dougherty, 43 N. Y., 107

SECTION XXIII.

ASSESSORS TO APPORTION VALUATION OF PROPERTY OF DELAWARE AND HUDSON CANAL COMPANY AMONG THE SEVERAL SCHOOL DISTRICTS—TO BE IN WRITING—SUPERVISOR TO MAKE SAME IN CASE OF NEGLECT OF ASSESSORS.

It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment list, to apportion the valuation of the property of the president, managers and company, of the Delaware and Hudson Canal Company, as appears on such assessment list, among the several school districts in their town in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town.

Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district, and the amount of the valuation of the property of the president, managers and company of the Delaware and Hudson Canal Company,

apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of said Delaware and Hudson Canal Company, on which all taxes against said Delaware and Hudson Canal Company in and for said districts shall be levied and assessed until the next annual assessment and apportionment.

In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district or of the said Delaware and Hudson Canal Company, to make such apportionment, in the same manner and with like effect as if made by said assessors.

The town clerk shall, whenever requested, furnish to the trustees or board of education of each district, a certified statement of the amounts apportioned to such district, and the name of the company to which the same relates.

The town clerk shall, whenever requested, once each year, furnish to the agent of the said Delaware and Hudson Canal Company, and to the trustees or board of education of each school district to which any portion of said appropriation belongs a certified copy of said apportionment.

In case any alteration shall be made in any school district, affecting the property of the said Delaware and Hudson Canal Company, the officer making such alteration shall at the same time determine what change in the valuation of the said property in such district would be just, on account of the alteration of such district, and the valuation shall be accordingly changed.

CHAPTER VI.

WHERE AND TO WHOM PROPERTY TO BE ASSESSED.

SECTION I. Lands, Where Assessed.

- II. To Whom Assessed.
- III. When Divided by Town Line.
- IV. On Bridges and Roads, Assessment of.
- V. Personal Property, Where Assessed.
- VI. Consignment of Products to Agents.
- VII. Tax on Non-Residents.
- VIII. Assessors to Make Separate Valuation of Town and Village or City Lands.
- IX. Highway Commissioners to Assess Labor for Part lying in Towns only.

SECTION I.

LANDS, WHERE ASSESSED.

Every person shall be assessed in the town or ward where he resides when the assessment is made, for all lands then owned by him within such town or ward, and occupied by him, or wholly unoccupied.

1 Ed. Rev. Stat , p. 361, sec. 1.

1 Rev. Stat., 389.

SECTION II.

TO WHOM ASSESSED.

Lands occupied by a person other than the owner, may be assessed to the occupant, as lands of non-residents, or, if the owner resides in the county in which such lands are located, to such owner.

Laws of 1878, chap. 152, sec. 2.

Amending 1 Ed. R. S., p. 361, sec. 2.

See *Whitney v. Thomas*, 23 N. Y., 285; *Newman v. Supervis* 45 N. Y., 676; *Coleman v. Shattuck*, 62 N. Y., 348; 2 Hun., 397; *Matter of Nichols*, 54 N. Y., 62.

SECTION III.

WHEN DIVIDED BY TOWN LINE.

When the line between two towns or wards divides a farm or lot, the same shall be taxed, if occupied in the town or ward where the occupant resides; if unoccupied, each part shall be assessed in the town in which the same shall lie; and this, whether such division line be a town line only, or be also a county line.

1 Ed. Rev. Stat., p. 362, sec. 4.

SECTION IV.

ON BRIDGES AND ROADS—ASSESSMENT OF.

So much of any bridge or toll house constructed by virtue of this act, as shall be within any town, city or village, shall be liable to taxation in such town, city or village, as real estate.

Laws 1848, chap. 259, sec. 14.

3 Ed. Rev. Stat., p. 571.

So much of any plank or turnpike road, and of the toll-houses, gates and other appurtenances thereof, constructed by virtue of this act, as shall be within any town, city or village shall be liable to taxation in such town, city or village as real estate.

Laws 1847, chap. 210, sec. 48.

3 Ed. Rev. Stat., p. 564.

SECTION V.

PERSONAL PROPERTY—WHERE ASSESSED.

Every person shall be assessed in the town or ward where he resides when the assessment is made, for all personal estate owned by him, including all personal estate in his possession, or under his control as agent, trustee, guardian, executor, or administrator; and in no case shall property so

held, under either of those trusts, be assessed against any other person. In case any person possessed of such personal estate shall reside during any year in which taxes may be levied in two or more counties, towns, or wards, his residence for the purposes and within the meaning of this section, shall be deemed and held to be in the county, town or ward in which his principal business shall have been transacted, but the products of any state of the United States consigned to agents in any town or ward of this state for sale on commission for the benefit of the owner thereof shall not be assessed to such agents, nor shall such agents of moneyed corporations or capitalists be liable to taxation under this section for any moneys in their possession, or under their control, transmitted to them for the purposes of investment or otherwise.

1 Ed. Rev. Stat., p. 362, sec. 5.

1 Rev. Stat., 389.

Power to determine the description of persons to be taxed, is vested solely in the legislature, and they may tax personal property within the state of non residents.

Wilson v. Mayor &c., New York, 4 E. D. Smith, 675.

People ex rel. Cunningham v. Broder, 35 N. Y., 629.

Matter of Nichols, 54 N. Y., 62.

As to the assessment of the property of certain corporations see ante, chap.

3, s. 28.

1 Rev. Stat., 390, s. 6.

Laws 1880, ch. 542, s. 8.

SECTION VI.

CONSIGNMENT OF PRODUCTS TO AGENTS.

But the products of any state of the United States consigned to agents in any town or ward of this state for sale on commission for the benefit of the owner thereof shall not be assessed to such agents, nor shall such agents of moneyed corporations or capitalists be liable to taxation under this section for any moneys in their possession or under

their control, transmitted to them for the purposes of investment or otherwise.

1 Ed. Rev. Stat., p. 362, sec. 5.

1 Rev. Stat., 389.

SECTION VII.

TAX ON NON-RESIDENTS.

All persons and associations doing business in the state of New York, as merchants, bankers, or otherwise, either as principals or partners, whether special or otherwise, and not residents of this state, shall be assessed and taxed on all sums invested in any manner in said business, the same as if they were residents of this state; and said taxes shall be collected from the property of the firms, persons or associations to which they severally belong.

Laws 1855, chap. 37.

3 Ed. Rev. Stat., p. 355.

SECTION VIII.

ASSESSORS TO MAKE SEPARATE VALUATION OF TOWN AND VILLAGE OR CITY LANDS.

In all cases where there is an incorporated village or city within the limits of any town, which is by law a separate road district, and there shall be any real estate, owned by any person or corporation, situated partly within the limits of such village or city and partly without said village or city, it shall be the duty of the assessors of such town, after fixing the valuation of the whole of such real estate as now by law required, to determine what proportion of such valuation is on account of that part of said real estate lying without the limits of said city or village, and designate the same upon their assessment list.

Law 1871, chap. 171, sec. 1.

SECTION IX.

HIGHWAY COMMISSIONERS TO ASSESS LABOR FOR PART LYING IN
TOWNS ONLY.

The valuation of the real estate lying without the limits of any city or village, so fixed and determined by the assessors, shall be the valuation on which the commissioners of highways of towns shall assess highway labor against the owner or owners of such real estate; and in no case shall the commissioners of highways assess any highway labor on property situated within the limits of any incorporated city or village which is by law a separate road district.

Id. sec. 2.

CHAPTER VII.

ASSESSORS.

SECTION I. Election of Assessors ; By Ballot.

- II. To Take Oath of Office ; Neglect to Take Oath.
- III. Penalty for Refusing to Serve ; Quaker Chosen, Resignation of.
- IV. Vacancies, How Filled ; if Town Neglect to Choose, Justices to Appoint.
- V. Assessor, When Appointed ; Fees of Assessor.
- VI. Assessors to Ascertain Number of Insane Persons.
- VII. Delinquent Assessors to be Returned to the Comptroller.
- VIII. Correcting Imperfect Descriptions of Lands ; Duty of Supervisors thereupon.
- IX. Duty of Assessors in Enforcing Payment of Taxes ; Punishment may be Inflicted if Payment Cannot be Enforced.
- X. Assessors in Villages.

SECTION I.

ELECTION OF ASSESSORS—BY BALLOT.

The revised statutes provide that there shall be elected at the annual town meeting in each town, one assessor who shall hold office for three years, and until a successor shall be duly elected or appointed.

Laws 1866, chap. 30.

6 Rev. Stat., p. 671.

Laws 1845, chap. 180, as amended by Laws 1847, chap. 455.

3 Ed. Rev. Stat., p. 304, 311.

In the event of the erection of a new town, three assessors are to be elected at the first annual meeting, who are to be divided, by lot, by the canvassers, upon the result of the canvass, into three classes, to be numbered, one, two and three ; the term of office of the first class shall be one year, of the second two, and of the third three; and one asses-

sor only shall thereafter annually be elected in such town, who shall hold his office for three years, and until a successor shall be duly elected or appointed. But in case any assessor shall be elected to fill a vacancy, he shall hold the office only for the unexpired term which shall have become vacant; and if two vacancies shall be required to be filled, the canvassers shall, after the canvass, determine by lot as aforesaid, the terms they shall respectively hold.

Laws 1845, chap. 180, sec. 4.

3 Ed. Rev. Stat., p. 304, as amended by Laws 1847, chap. 455, sec. 1.

3 Ed. Rev. Stat., p. 311.

Assessors are to be chosen by ballot, and no person is eligible to the office unless he be an elector of the town for which he is chosen.

1 Ed. Rev. Stat., p. 316, 318.

SECTION II.

TO TAKE OATH OF OFFICE.—NEGLECT TO TAKE OATH.

Every person chosen or appointed to the office of assessor, before he enters on the duties of his office, and within ten days after he shall be notified of his election or appointment, shall take and subscribe before some justice of the peace or commissioner of deeds, the oath of office prescribed in the sixth article of the constitution of this state.

1 Ed. Rev. Stat., p. 318.

Such oath shall be administered without reward, and the justice or commissioner, before whom the same shall be taken, shall also without reward, certify in writing the day and year when the same was taken, and shall deliver such certificate to the person by whom the oath was made.

1 Ed. Rev. Stat., p. 318.

The oath may also be subscribed and sworn before the town clerk of the town in which such officers shall be elected,

Such oath shall be administered and certified without fee or reward.

Laws 1838, chap. 172.

3 Ed. Rev. Stat., p. 300.

See Form No. 1.

The assessor taking the oath, within eight days thereafter, shall cause the certificate to be filed in the office of the town clerk.

1 Ed. Rev. Stat., p. 318, sec. 15.

If any person chosen assessor shall not take and subscribe such oath, and cause the certificate thereof to be filed as above required, such neglect shall be deemed a refusal to serve.

Id.

But if he enters upon the duties of his office before he shall have taken such oath, he shall forfeit to the town the sum of fifty dollars.

1 Rev. Stat. 319, sec. 25.

If his name appears on the poll list, that is to be deemed a sufficient notice of his election; but if not, he is entitled to a notice of his election from the town clerk of the town, within ten days after the meeting at which he is chosen.

1 Ed. Rev. Stat., p. 317, sec. 10.

SECTION III.

PENALTY FOR REFUSING TO SERVE—QUAKER CHOSEN ASSESSOR.

—RESIGNATION OF.

If any person chosen or appointed assessor shall refuse to serve, he shall forfeit to the town the sum of fifty dollars.

1 Ed. Rev. Stat., p. 319, sec. 25.

No Quaker, or reputed Quaker, chosen or appointed to the office of assessor, shall be liable to such penalty, if he shall affirm, within three days after receiving notice of his election or appointment, that he has conscientious scruples about executing the duties of said office.

1 Ed. Rev. Stat., p. 320, sec. 27.

Such affirmation shall be made before some one of the justices of the town, who shall, without reward, certify in writing, the day and year when the same was taken, and deliver such certificate to the person by whom such affirmation was made, and such person, within eight days thereafter, shall cause said certificate to be filed in the office of the town clerk.

Id.

Should any assessor desire to resign his office, he may give notice of his intention so to do, to any three justices of the peace of the town, who may, for sufficient cause shown, accept the resignation.

1 Ed. Rev. Stat., p. 320, sec. 33.

SECTION IV.

VACANCIES HOW FILLED, IF TOWN NEGLECT TO CHOOSE— JUSTICES TO APPOINT.

When any vacancy shall happen in the office of assessor, by death, removal, resignation, neglect to qualify, or refusal to serve, it shall be supplied, until the next succeeding annual town meeting, by an appointment in writing, under the hands of any three justices of the peace, or two justices and the supervisor of the town.

Laws 1847, Chap. 455, sec. 2.

3 Ed. Rev. Stat., p. 311.

The provision of the statute for calling a special meeting to fill vacancies is superseded by the above act.

For order appointing, see form No. 2.

If any town shall neglect, at its annual town meeting, to choose an assessor, it shall be lawful for any three justices of the peace of the said town, by warrant under their hands and seals, to appoint such officer; and the person so appointed shall hold his office until another is chosen or appointed in his place, and shall have the same powers and be subject to the same duties and penalties, as if he had been duly chosen by the electors.

1 Ed. Rev. Stat., p. 320, sec. 31.

SECTION V.

ASSESSOR, WHEN APPOINTED—FEES OF ASSESSOR.

An assessor appointed to fill a vacancy holds to the next annual town meeting after his appointment, and not for the balance of the term to which he is appointed; but if at an annual town meeting there are two vacancies to be filled, the persons elected will hold for the unexpired term.

The assessors are entitled to the sum of two dollars per day, for each day actually and necessarily spent in the discharge of their official duties.

Laws, 1870, chap. 242.
7 Ed. Rev. Stat., p. 676.

Enrollment Officer of National Guard may examine the assessment rolls, and assessors to allow them to examine the same.

Laws 1878, chap. 275, sec. 2.
Amending Laws, 1870, Chap. 80, Sec. 4.

SECTION VI.

ASSESSORS TO ASCERTAIN NUMBER OF INSANE PERSONS.

It shall be the duty of the assessors in each town and ward in the State, every year, to make diligent inquiry and ascertain with accuracy the number and names of all insane persons in said town or ward, and to make a list of the same with the best account they can get, in each case, of the patient's age, general health, habits and occupation: kind, degree and duration of insanity, and pecuniary ability of self and relatives liable for his support. They shall send this list, with all the facts brought down to the latest period, to the clerk of the county, by the first day of August.

Laws 1842, chap. 135, sec. 44
4 Ed. Rev. Stat. p. 28.

SECTION VII.

DELINQUENT ASSESSORS TO BE RETURNED TO THE COMPTROLLER.

The boards of supervisors of the several counties, at every annual meeting, shall transmit to the comptroller the names and places of abode of the town clerks and assessors, in their respective counties, who shall have willfully refused or neglected to perform the duties required of them in this chapter; and the comptroller shall thereupon give notice to the district attorneys of the proper counties, to the end that they may prosecute such delinquent town clerks and assessors, for the penalties incurred by them.

1 Rev. Stat. 419, sec. 2.

1 Ed. Rev. Stat., 379.

SECTION VIII.

CORRECTING IMPERFECT DESCRIPTIONS OF LANDS—DUTY OF SUPERVISORS THEREUPON.

If, in consequence of having received irregular and imperfect descriptions of the lands of non-residents in any town, the comptroller shall apprehend that irregular or imperfect returns may again be received, he may give notice of such apprehension to the board of supervisors of the proper county, at their annual meeting, specifying the several towns in such county, the returns from which will probably require correction.

1 Rev. Stat. 419, 420.

1 Ed. Rev. Stat., 380.

It shall be the duty of such board of supervisors to require the assessors and the collector of such town, specified in the notice of the comptroller, to meet in such town at such place as shall be designated by the supervisors, within thirty days of the expiration of the time, when the collectors are to make their returns to the county treasurer.

1 Rev. Stat. 420, sec. 8.

1 Ed. Rev. Stat., 380.

It shall be the duty of the assessors and collectors to meet pursuant to such requisition. The collector shall specify to the assessors, the several lots to be returned as non-residents property, by reason of the non-payment of the taxes; and the assessors shall arrange the same according to the provisions of this chapter, and shall examine the description of the lots; and in case any of them are found erroneous and imperfect, they shall correct the same, conformable to such instructions as may have been received from the comptroller, and the collector shall thereupon return the lots as arranged and described by the assessors, to the county treasurer.

1 Rev. Stat., 420.

1 Ed. Rev. Stat., 380.

SECTION IX.

DUTY OF ASSESSORS IN FORCING PAYMENT OF TAXES—PUNISHMENT MAY BE INFLICTED IF PAYMENT CANNOT BE ENFORCED.

In case of the refusal or neglect of any person to pay any tax imposed on him for personal property, if there be no goods or chattels in his possession upon which the same may be levied by distress and sale according to law, and if the property assessed shall exceed the sum of one thousand dollars, the collector of the town or ward, if he has reason to believe that the person taxed has debts, credits, choses in action or other personal property not taxed elsewhere in this state, and upon which levy cannot be made according to law, shall report the same to the assessors of the town or ward, and any assessor may thereupon in his discretion make application within one year to the court of common pleas of the county, or to the supreme court, to enforce the payment of such tax.

Laws 1842, chap. 318.

3 Ed. Rev. Stat., 346.

The neglect or refusal to pay such tax according to law, shall be held and deemed to be a neglect or violation of duty or misconduct within the provisions of Title thirteen of Chapter eight of the third part of the Revised Statutes; and the court upon application of an assessor as herein provided, and due proof, may proceed to enforce the payment or punish the misconduct in the same manner, and with the like authority, as is provided in the above mentioned Title of the Revised Statutes in regard to offences therein made punishable, or to the enforcing the payment of money by fine and imprisonment, or either of them.

Laws 1842, chap. 318, sec. 2

3 Ed. Rev. Stat., 346.

The court may impose a fine for the misconduct mentioned in the next preceding section, sufficient in amount, for the payment of the tax assessed, and of the costs and expenses of the proceedings authorized by this act to enforce such payment, or to punish such misconduct; and the amount of such tax shall be paid out of such fine, to the county treasurer of the county, who shall apply the same in like manner as the tax was required to be applied, if the same had been collected by the collector; and the costs and expenses of such proceedings shall be paid out of such fine to the assessor who made the application, to enforce the payment of the tax.

Laws 1842, chap. 318, sec. 3.

3 Ed. Rev. Stat., 346

All sales of lands charged with taxes in arrear for opening and improving roads within this State, shall be conducted in the manner herein before prescribed; and the owners of the lands sold, shall be allowed to redeem within the same time, and on the same conditions.

1 Rev. Stat., 420.

1 Ed. Rev. Stat., 380, sec. 11.

SECTION X.

ASSESSORS IN VILLAGES.

The trustees (of villages incorporated under this act) or a majority of them shall act as assessors of the village, or may appoint of their number a committee for that purpose, and the trustees so acting as assessors shall have the powers of town assessors, and be subject to the laws applicable to the same subject to the provisions of this act.

Laws 1870, ch. 291, Title 3, sec. 13.

The trustees (of villages incorporated under this act shall have power to raise by assessment and tax money for the expenditures required by the provisions of this act and the proceedings had thereunder, and may assess and collect a poll tax of one dollar on each male resident in the village between the ages of twenty-one and sixty years.

Laws 1870, ch. 291, Title 3, Sec. 16.

CHAPTER VIII.

DUTY OF ASSESSORS AS TO DOG TAX.

SECTION I. Assessors to Assess Dog Tax.

- II. Duty of Assessors to Ascertain Owners of Dogs.
- III. Owner to Deliver Description.
- IV. Tax How Collected.
- V. To Ascertain Damage to Sheep.
- VI. Their Certificate to be Evidence.
- VII. Duties and Powers of Fence-Viewers.
- VIII. Certificate to be Presented to Town Auditors.
- IX. Act Extended to other Counties.

SECTION I.

ASSESSORS TO ASSESS DOG TAX.

In all the counties of the state, except the city and county of New York, there shall be annually levied and collected the following tax upon dogs: Upon every bitch, owned or harbored by any one or more persons, or by any family, three dollars; upon every additional bitch, owned or harbored by the same person or persons, or family, five dollars; upon every dog other than a bitch, owned or harbored by any one or more persons, or by any family, fifty cents; and upon every additional dog other than a bitch, owned or harbored by the same person or persons or families, two dollars.

1 Rev. Stat. 703, as amended by laws 1862, chap. 244.

1 Ed. Rev. Stat., 655.

SECTION II.

DUTY OF ASSESSORS TO ASCERTAIN OWNERS OF DOGS.

The assessors of any town, at the time of making their annual assessments, shall inquire and ascertain the number of dogs liable to be taxed; and shall enter in lists to be

made by them, the name of every person in their respective towns, then owning or keeping any dog, subject to the above tax, the number kept by such person, and the whole amount of the tax to be paid by him.

1 Rev. Stat., p. 703, sec. 2.

1 Ed. Rev. Stat., p. 655.

SECTION III.

OWNER TO DELIVER DESCRIPTION.

The owner or possessor of every dog liable to the above tax, shall, whenever required by any assessor, deliver to him a description, in writing, of every such dog, owned or possessed by him. For every neglect or refusal so to do, and for every false statement, made in any description so furnished, he shall forfeit five dollars, to be recovered by the supervisor of the town.

1 Rev. Stat., 703.

1 Ed. Rev. Stat., 655.

Every person in possession of any dog, or who shall suffer any dog to remain about his house for the space of twenty days previous to the assessment of a tax, or previous to any inquiry, chasing or worrying of sheep, or any such attack made by a dog, shall be deemed the owner of such dog for the purposes of this title.

1 R. S., p. 706, s. 20.

SECTION IV.

TAX HOW COLLECTED.

The assessors of every town or city, or ward of a city, except the city of New York, shall annex to the assessment roll of real and personal estate therein made by them annually, the name of each and every person or persons liable to the tax imposed hereby, together with the number of bitches and dogs for which such person or persons is or are

assessed, and return the same to the supervisor of their respective towns, cities, or wards of cities, to be laid by the said supervisor before the board of supervisors, to be by them collected in the same manner as other state and county and town taxes are collected. And if any person duly assessed shall refuse or neglect to pay the tax so assessed within five days of the demand, it shall be lawful for any person, and it shall be the duty of the collector to kill the dog so taxed.

1 Rev. Stat. 704, as amended laws 1862, chap. 244.

1 Ed. Rev. Stat., 655.

SECTION V.

TO ASCERTAIN DAMAGE TO SHEEP.

The owner of any sheep or lambs that may be killed or injured by any dog, may apply to any two fence-viewers of the town, or assessors of the city, or the ward of the city, who shall inquire into the matter, and view the sheep injured or killed, and may examine witnesses in relation thereto, for which purpose either of them shall have power to administer oaths. If they are satisfied that the same were killed or hurt only by dogs, and in no other way, they shall certify such fact, the number of the sheep killed or hurt, and the amount of the damages sustained thereby by the owner, together with the value of the sheep hurt or killed.

1 Rev. Stat., 704, sec. 10, as amended Laws 1862, chap. 244.

1 Ed. Rev. Stat., 656.

SECTION VI.

THEIR CERTIFICATE TO BE EVIDENCE.

The said certificate shall be presumptive evidence of the facts therein contained, in any suit that may be brought by the party injured, against the owner or possessor of any dog; if it shall appear on the trial of such suit that notice in writing of the time and place of such view shall have been

served twenty-four hours before, on the said owner or possessor, either personally or by leaving at his dwelling house with a person who usually dwells therein, and who shall have arrived at the age of sixteen years, was given to the owner of the dog of the intended application.

1 Rev. Stat. 705, sec. 11 as amended Laws 1862. chap. 244

1 Ed. Rev. Stat., 656.

SECTION VII.

DUTIES AND POWERS OF FENCE-VIEWERS.

The owner or owners of any sheep or lambs that may be killed or injured by dogs, may apply to any two fence-viewers of the town, who shall enquire into the matter and examine witnesses in relation thereto, for which purpose either of them shall have power to administer oaths, and if they shall be satisfied that the same were killed by dogs, and in no other way, they shall certify such fact, the number of such sheep killed and the number injured, the value of such sheep killed or injured immediately previous to such killing or injury, together with the value of the sheep after being so killed or injured, together with the amount of their fees.

Laws 1864, chap. 197, sec. 3.

6 Ed. Rev. Stat., p. 242.

SECTION VIII.

CERTIFICATE TO BE PRESENTED TO TOWN AUDITORS.

Such certificate shall be presented to the board of town auditors at their annual meeting for auditing town accounts, who shall have the same power in auditing or allowing the same as in regard to town accounts, and if such board shall be satisfied by the oath of the person claiming such damages that such claimant has not been able to discover the owner or possessor of the dog or dogs by which such

damage was done, or that he has failed to recover his damages of such owner or possessor, they shall give an order on the supervisor of the town for the amount which they shall allow, who shall pay such order out of the funds arising from the provisions of this act.

Laws 1864, chap. 197, sec. 4.

6 Ed. Rev. Stat., 242.

SECTION IX.

ACT EXTENDED TO OTHER COUNTIES.

Whenever the board of supervisors of any county of this state shall, by resolution, declare that the provisions of this act shall be extended and made applicable to said county, the provisions of this act shall thereafter be applicable to such county.

Laws 1864, chap. 197, sec. 7.

6 Ed. Rev. Stat., 243.

CHAPTER IX.

DUTIES OF SUPERVISORS.

SECTION I. Board of Supervisors to Transmit Statement to Comptroller.

- II. Appeals by Supervisors to Comptroller.
- III. When Appeal must be Made and Filed.
- IV. Costs in Case of Appeal. A charge to Appellant.
- V. Amendment Applicable to Former Appeals.
- VI. To Publish Proceedings.
- VII. Taxes on Lands of Residents and Rail Roads returned unpaid.
- VIII. Tax may be Paid to County Treasurer.
- IX. Description of Land to be Made by Supervisor.
- X. If not Made, Taxes Assessed upon Town.
- XI. How Assessed in Case of Division of Town.
- XII. Authorizing Supplementary Proceedings for the Collection of Taxes.
- XIII. Clerks of Board of Supervisors to Report to Comptroller Indebtedness of Counties, Towns and Villages.
- XIV. May Legalize Acts of Towns : Correct Error in Assessments ; Refunding of Taxes.
- XV. Appeals ; Taxes Refunded how Apportioned.
- XVI. Supervisors to Levy Amount due Persons for Taxes in Disputed Boundary Lines.
- XVII. When Supervisors to Raise Money to Defray Expenses of Insane Poor at Asylum.
- XVIII. Expenses of Insane Poor at Asylum to be Defrayed by County or Town ; When to be Paid by County Treasurer.
- XIX. Towns and Villages may Levy Tax to Provide Sinking Fund to Pay Bonded Indebtedness.
- XX. Amount to be Determined by Town Board or Village Trustees ; Notice how Given.
- XXI. Money Raised how Disposed of ; Duty of Supervisor of Town or Village President.
- XXII. Money may be Borrowed for Highway Purposes in any Town.
- XXIII. Board of Supervisors to Prescribe Form of Obligation ; Tax how Imposed.

- XXIV. Supervisors to Give Bonds to County Treasurer for School Money.
- XXV. Supervisors to Authorize County Treasurer to Extend Time for Collection of Taxes.
- XXVI. Supervisors to impose Tax on Dogs.
- XXVII. Tax to Pay Orders for Sheep killed.
- XXVIII. Supervisors to Authorize any Town to Elect a Tax Receiver.
- XXIX. Supervisors to Designate Number of Assessors.
- XXX. Supervisors to Provide Tax to Pay Loans.
- XXXI. Supervisors to Pay Troops on Duty at request of Sheriff or Mayor.
- XXXII. When May refund Tax.

SECTION I.

BOARD OF SUPERVISORS TO TRANSMIT STATEMENT TO COMPTROLLER.

The board of supervisors having completed the assessment, shall transmit to the comptroller, with the aggregate valuations of the real and personal estate in their county, a statement, showing the names of the several incorporated companies liable to taxation in such county; the amount of the capital stock paid in, and secured to be paid in by each; the amount of real and personal property of each, as put down by the assessors, or by them, and the amount of taxes assessed on each. In those counties in which there is no such company, the board of supervisors shall certify such fact to the comptroller, with their returns of the aggregate valuations of real and personal estate.

1 Ed. Rev. Stat., p. 376, sec. 16.

1 Rev. Stat., 417.

SECTION II.

APPEALS BY THE SUPERVISORS TO THE COMPTROLLER.

Any supervisor may appeal in behalf of the town, city or ward, which he wholly or in part represents, to the

comptroller of the state of New York, from any act or decision of the board of supervisors in the equalization of assessments, and the correction of the assessment rolls under the provisions of the first title of chapter thirteen, of the first part of the Revised Statutes. Such appeal shall be brought by serving a notice thereof, within ten days after the corrected assessment rolls shall be completed by the board of supervisors, or the chairman and clerk of said board, and also filing such notice in the office of the clerk of the county, together with the affidavit of the supervisor so appealing, that in his opinion injustice has been done to such town, city or ward by the act or decision appealed from. The comptroller shall hear the proofs of the parties, which may be presented in the form of affidavit or otherwise, as he shall direct; after hearing such proofs he shall determine whether any, and if any, what deductions ought to have been made from the corrected valuations of such town, city or ward; and in the assessment and collection of taxes of the next following year, such town or city shall be credited with the amount of taxes levied from it on such excess of valuation, and the same shall be levied and collected from the other towns and cities of the county.

Laws 1859, chap. 312, sec. 13.
3 Ed. Rev. Stat., 378.

SECTION III.

WHEN APPEAL MUST BE MADE AND FILED.

Any appeal made in pursuance of section thirteen of this act, the determination of which is not made and filed with the clerk of said board of supervisors on or before the commencement of the next succeeding annual session thereof, shall be null and void, and the same shall be deemed as dismissed.

Laws 1859, chap. 312, as amended by laws 1873, chap. 327, sec. 14.

SECTION IV.

COSTS AND EXPENSES ON APPEAL, A CHARGE ON APPELLANT.

Whenever any appeal so made shall not be sustained, the costs and expenses arising therefrom, and connected therewith, shall be a charge upon the town, city or ward so appealing, which shall be audited by the board of supervisors, and levied upon the taxable property of said town, city or ward; and whenever any appeal so made shall be sustained, the state assessor shall certify the reasonable costs and expenses arising therefrom and connected therewith, on the part of the appellant and respondent, and such amounts so certified shall be audited by the board of supervisors and levied and collected from all the towns and cities of the county in the assessment and collection of taxes for the current year; excepting those towns and cities in which such appeal was sustained; and whenever more than one town or city in a county shall have appealed, some of which are sustained and some dismissed, it shall be the duty of the state assessors to decide what portion of the costs and expenses shall be borne by the town or towns, city or cities, in which such appeal was dismissed.

Laws 1880, chap. 80, amending.

Laws 1874, chap. 351, and

Laws 1859, chap. 312, sec. 15,

This amendment applicable to former appeals decided by the comptroller.

Laws 1880, chap. 80, sec. 2.

SECTION V.

AMENDMENT APPLICABLE TO FORMER APPEALS.

This amendment shall apply to all appeals under the act aforesaid that have been decided by the comptroller since said chapter 327 of the laws 1873 took effect, and the amount of costs and expenses that shall be certified under

this amendment shall be audited and levied by the board of supervisors at the next annual meeting thereof after such costs and expenses shall be so certified.

Laws 1874, Chap. 351, sec. 2.

The supreme court has power, upon a common law *certiorari*, to review and correct any error committed by the comptroller upon the merits of an appeal by town supervisors from the decision of the county supervisors in the equalization of assessments; and, where it appears that by reason of mixing the personal and real estate together, the comptroller has made a mistake, and allowed too large a deduction, the court will correct the error by modifying his determination.

People *ex rel.*, Benjamin v. Hillhouse, 1 Lansing Rep., 87.

The comptroller has a discretion, under above mentioned section to direct how the proofs shall be presented to him, on appeal by town supervisors from the decision of the county supervisors in the equalization of assessments, and has authority to appoint a referee to take such proofs.

Id.

SECTION VI.

TO PUBLISH PROCEEDINGS.

It is the duty of the board of supervisors, annually to publish in one or more public newspapers in such county their proceedings upon the equalization of the assessment roll.

Laws 1839, chap. 369.
3 Ed. Rev. Stat., 329.

SECTION VII.

TAXES ON LANDS OF RESIDENTS AND RAILROADS RETURNED
UNPAID.

If the taxes on any farm or lot of land assessed to a resident shall be returned as unpaid, in consequence of such premises becoming vacant by the removal of the occupant before the collection of the tax imposed thereon, or in default of goods and chattels of the occupant to satisfy such tax, or if the taxes on any land occupied by or used in connection with any railroad, which was assessed to any person, company or corporation, owning, operating or constructing such railroad, shall be returned as unpaid, the supervisor of the town or ward in which such land was assessed shall add a description thereof to the assessment roll of the next year in the part thereof appropriated to taxes on lands of non-residents, and shall charge the same with the uncollected tax of the preceding year; and the same proceedings shall be had thereon in all respects as if it was the land of a non-resident, and as if such tax had been laid in the year in which the description is so added. The land occupied by or used in connection with any railroad assessed to any person, company or corporation, owning, operating or constructing such railroad, may be described in the following form: "A strip of land owned and occupied by the — railroad company, in the year —, extending about — feet on each side of the railroad track, and embracing the same, together with all the depots, stations, turnouts, switches and other improvements thereon and connected therewith, commencing at the point where such railroad track crosses the boundary line in entering the — ward of the city of —, or the town of —, and extending to the point where such track crosses the boundary line leaving such — ward of the city of —, or the town of —, or to the point of termination in the same, containing — acres more or less;" and when thus described, with the blanks in such form properly

filled, on the comptroller's book of taxes, or advertised or sold for taxes, no other description thereof shall be deemed necessary; provided, that if the comptroller shall believe that the interests of the state should be best subserved by selling the land in lots or divisions, he shall be empowered to direct such surveys or to create such maps as may be made from titles to the same, so as to enable him to sell such lots by description sufficient to convey title thereto.

Laws of 1876, chap. 101.

Amending Laws 1855, chap. 427, sec. 5.

SECTION VIII.

TAX MAY BE PAID TO COUNTY TREASURER.

Any person whose lands are assessed, may pay the tax assessed thereon to the treasurer of the county in which such lands were assessed, provided such payment be made to the county treasurer before he shall have made his annual return of the arrears of taxes to the comptroller. The county treasurer shall give a receipt for such payment, and shall also make return thereof to the comptroller.

Laws 1855, Chap. 427, sec. 7,

2 Ed. Rev. Stat., 358.

SECTION IX.

DESCRIPTION OF LAND TO BE MADE BY SUPERVISOR.

Whenever the comptroller shall have rejected any tax in the first instance, or have cancelled and charged the same to a county to which it had previously been credited, the supervisor of the town or ward in which such lands are situate, shall, if in his power, add to the assessment roll of such town or ward for the year during which such transcript shall have been forwarded by the comptroller to the county treasurer, an accurate description of such lands, and the correct amount of taxes thereon, stating the tax of each year, and each kind of tax, separately, and shall furnish the comp-

troller with all such maps and surveys of such lands as shall have been required by him; and if necessary, he may cause a survey and map of each lot or parcel returned for more perfect description to be made and the expense of such survey and map shall be a charge upon such land to be added to the tax thereon, and the board of supervisors shall direct the collection of such taxes and expenses so added to such assessment roll, and they shall for all the purposes of this act, be considered as the taxes of the year in which the description shall be perfected. If the supervisor of such town or ward shall not have fully complied with the requirements of this section, the comptroller shall not thereafter admit, but shall reject all such re-assessed, cancelled or rejected taxes as may be returned to him.

Laws 1878, Chap. 152, Sec. 2.

Amending Laws 1855, chap. 427, sec. 19.

3 Ed. Rev. Stat., 360.

SECTION X.

IF NOT MADE, TAX TO BE ASSESSED UPON TOWN.

If the correct amount of such taxes and an accurate description of such lands shall not have been added by such supervisor, to the assessment roll of his town or ward for the year during which such transcript shall have been forwarded by the comptroller to the county treasurer, the board of supervisors shall cause such arrears of taxes and the interest thereon, to be levied on the valuations of the estates, real and personal, of the town or ward in which such taxes were originally assessed, and shall direct the same to be collected with the other taxes of the same year.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 20.

4 Ed. R. S., 360.

SECTION XI.

HOW ASSESSED IN CASE OF DIVISION OF TOWN.

If the town or ward in which such taxes were originally assessed, shall have been divided since such assessment, then such taxes and interest shall be apportioned by the board of supervisors among the towns and wards included in the limits of such original towns or wards in such equitable manner as they may deem proper.

Laws 1878, Chap. 152, sec. 2; amending Laws 1855, Chap. 427, sec. 21.
3 Ed. Rev. Stat. 360.

SECTION XII.

AUTHORIZING SUPPLEMENTARY PROCEEDINGS, FOR THE COLLECTION OF TAXES.

When a tax exceeding ten dollars in amount, levied by the board of supervisors of a county against a person, firm, estate or corporation, residents thereof, is returned by the collector to the county treasurer uncollected, for want of goods and chattels out of which to collect the same, the supervisor of the town or ward or the county treasurer, within one year thereafter, may apply on affidavit to the county judge or special county judge of the county, and obtain an order requiring such person, firm, estate or corporation, to appear and answer concerning his or their property.

The same proceeding may in all respects be had as in cases supplementary to execution; and the same cost and disbursements may be allowed against the defendant, but none in his favor. The tax, if collected, shall be paid over to the county treasurer, and the costs collected from the defendant shall belong to the party instituting the proceedings. A county treasurer shall have no additional compensation for such proceeding; and a supervisor shall have no other except his per diem fees for time spent in the same.

Laws 1879, chap. 446, amending Laws 1867, chap. 361, sec. 1.

This act shall take effect immediately, and apply to cases where returns have already been made by collectors, as well as to cases which may hereafter arise, provided that the proceeding be commenced within one year after the collector has made his return.

Laws 1867, chap. 361. 7 Ed. Rev. Stat., 85.

SECTION XIII.

CLERKS OF THE BOARD OF SUPERVISORS TO REPORT TO COMPTROLLER INDEBTEDNESS OF COUNTIES, VILLAGES AND TOWNS.

The clerks of the boards of supervisors of the several counties in this state shall, on or before the second Monday in December in each year, transmit to the comptroller, by mail, in the form which shall be prescribed by the comptroller, a certificate or return of all the indebtedness of their respective counties, and of each town, village and ward therein.

The clerk who shall refuse or neglect to make such return shall forfeit to the people of this state the sum of fifty dollars.

Laws of 1872, chap. 17.

SECTION XIV.

MAY LEGALIZE ACTS OF TOWNS—CORRECT ERROR IN ASSESSMENTS—REFUNDING OF TAXES.

The board of supervisors of any county, except New York and Kings, may, by a vote of two-thirds of all the members elected thereto, legalize the informal acts of any town meeting in raising money for any purpose for which such money is authorized to be raised by law, and by a like vote to legalize the irregular acts of any town officer, performed in good faith, and within the scope of his authority, provided such legalization shall be recommended by the county court of such county; and also, on like

recommendation, to correct any manifest clerical or other error in any assessments or returns made by any town officer to such board of supervisors, or which shall properly come before such board for their action, confirmation or review; and upon the order of such court, made on application of the person aggrieved, and notice thereof, to such board, it shall refund to such person the amount collected from him of any tax illegally or improperly assessed or levied.

Laws 1871, chap. 695.

People *ex rel.* Youmans *v.* Supervisors of Delaware Co., 60 N. Y., 381.

SECTION XV.

APPEALS—TAXES REFUNDED—HOW APPORTIONED.

An appeal may be taken from such order, as from a judgment of said court in an action. In raising the amount so refunded such board shall adjust and apportion the same upon the property of the several towns of the county as shall be just, taking into consideration the portion of state, county and town tax included therein, and the extent to which each town has been benefitted thereby.

Id.

Liability to refund, see Merchants' National Bank *v.* Supervisors of N. Y.,
3 Hun., 156.

Matter of Hudson City Savings Institution, 5 Hun., 612.

SECTION XVI.

SUPERVISORS TO LEVY AMOUNT DUE PERSONS FOR TAXES IN DISPUTED BOUNDARY LINES.

To ascertain, fix and determine the amount to which any person, persons or corporation is equitably entitled to receive back from any town or towns for taxes paid while the boundary line between such town or towns was in dispute, and to levy and assess such amount upon such town

or towns, and cause the same to be collected in the same manner that other taxes are levied, assessed and collected.

Laws 1873, chap. 119, amending sec 4, chap. 194, Laws 1849, as amended by Laws 1870, chap. 361.

SECTION XVII.

WHEN SUPERVISORS TO RAISE MONEY TO DEFRAY EXPENSES OF INSANE POOR AT ASYLUM.

When an insane person in indigent circumstances, not a pauper, shall have been sent to any state asylum by his friends, who have paid his bills therein for six months, if the superintendent shall certify that he is a fit patient and likely to be benefitted by remaining in the institution, the supervisors of the county of his residence are authorized and required, upon an application under oath in his behalf, to raise a sum of money sufficient to defray the expenses of his remaining there another year, and to pay the same to the treasurer of the asylum; and they shall repeat the same for one year more upon like application and the production of a new certificate of like import from the superintendent of such asylum.

Laws 1874, chap. 446, sec. 15.

SECTION XVIII.

EXPENSES OF INSANE POOR AT ASYLUM TO BE DEFRAYED BY COUNTY OR TOWN—WHEN TO BE PAID BY COUNTY TREAS- URER.

The expense of sending any lunatic to a state asylum, and of supporting him there, shall be defrayed by the county or town to which he may be chargeable. If chargeable to a county, or to any town, whose poor moneys are required to be paid into the county treasury, such expense shall be paid by the county treasurer out of the funds appropriated to the support of the poor belonging to such

county or town, after being allowed and certified by the county superintendents. If such lunatic be chargeable to a town whose poor moneys are not required to be paid into the county treasury, such expenses shall be paid by the overseers of the poor thereof.

Laws 1874, sec. 16, chap. 446.

See same chap., title third, sec. 31.

SECTION XIX.

TOWNS AND VILLAGES MAY LEVY TAX TO PROVIDE SINKING FUND TO PAY BONDED INDEBTEDNESS.

Any town or incorporated village in the State of New York, having issued its bonds, or that may hereafter issue its bonds, under the provisions of law, and said bonds being a valid debt of said town or village to mature or become due in a specified period of time, may by a vote of a majority of the electors present, and voting at any annual town meeting or charter election of said village, raise by tax levied upon the taxable property of said town or village, such sum as may be specified by said vote in the manner hereinafter provided, for the purpose of buying and cancelling said bonds, or the purpose of providing a sinking fund for the ultimate payment of said bonds.

Laws 1874, chap. 410, sec. 1.

SECTION XX.

AMOUNT TO BE DETERMINED BY TOWN BOARD OR VILLAGE TRUSTEES—NOTICE HOW GIVEN.

The town board consisting of the supervisor, town clerk and justice of the peace in towns or the village trustees in villages, shall meet at least twenty days before the annual town meeting or the annual village election, and shall determine by a majority of said board what amount shall be annually raised for the purpose as described in section one of this act, and the form of the ballot and the manner

of voting, and shall give notice of such voting by posting at least five notices in public places in said town or village setting forth the time of such voting, the amount to be raised, and the purpose for which the same is raised, and the result of such vote shall be operative until the same shall be changed by a vote of said electors taken in a similar manner at a subsequent election.

Laws 1874, chap. 410, sec. 2.

SECTION XXI.

MONEY RAISED, HOW DISPOSED OF — DUTY OF SUPERVISOR OF TOWN, OR VILLAGE PRESIDENT.

The money so raised shall be used to buy and cancel the said bonds provided the same can be purchased at their par value or in case said bonds cannot be so purchased, said money shall be paid over to the county, who shall loan the same at seven per cent. per annum interest, secured by mortgage on unincumbered real estate for a period of time equal to the time said bonds have to run, or invest the same in bonds of the State of New York or of the United States, and at the maturity of said town or village bonds, said money shall be applied to the payment of said bonds, and the supervisor of such town or president of the trustees of said village shall be charged with the duty of receiving said money from said county treasurer, giving security for the same in double the amount received, and of purchasing or paying said bonds, and of cancelling the same in the presence of the said town board or village trustees, as the case may be.

Laws 1874, chap. 410, sec. 3.

SECTION XXII.

MONEY MAY BE BORROWED FOR HIGHWAY PURPOSES IN ANY TOWN.

The boards of supervisors of each county in this state, except New York and Kings, shall have power, at their

annual meeting, or any other regular meeting, to authorize the supervisor of any town in said county, by and with the consent of the commissioner or commissioners of highways, town clerk and justices of the peace of such town, to borrow such sum of money, for and on the credit of each town, not exceeding, however, in any year, the amount of one half of one per cent. on the assessed valuation of the taxable property of the town for such year, as the said town officers may deem necessary to build or repair any road or roads, or bridge or bridges in such town, or which shall be partly in such town and partly in an adjoining town, or to pay any existing debt incurred in good faith by or on behalf of such town for such purpose, before the passage of this act.

Laws 1874, chap. 260, sec. 1.

SECTION XXIII.

BOARD OF SUPERVISORS TO PRESCRIBE FORM OF OBLIGATION.

—TAX HOW IMPOSED.

The said board of supervisors shall have power to prescribe the form of obligation to be issued on any such loan, and the time and place of payment, the time not to exceed ten years from the date of such obligation, and the rate of interest thereon not exceeding seven per cent. per annum.

And the said board of supervisors shall have power, and it shall be their duty, from time to time, as the said obligations shall become due and payable, to impose upon the taxable property of such town sufficient tax to pay the said principal and interest of such obligations according to the terms and conditions thereof.

Laws 1874, Chap. 260, sec. 1.

SECTION XXIV.

SUPERVISORS TO GIVE BONDS TO COUNTY TREASURER FOR SCHOOL MONEY.

Immediately on receiving the commissioner's certificate of apportionment, the county treasurer shall require of each supervisor, and each supervisor shall give to the treasurer, in behalf of the town, his bond, with two or more sufficient sureties, approved by the treasurer, in the penalty of at least double the amount of the school moneys set apart or apportioned to the town, and of any such moneys unaccounted for by his predecessor, conditioned for the faithful disbursement, safe-keeping and accounting for such moneys, and of all other school moneys that may come into his hands from any other source. If the condition shall be broken, the county treasurer shall sue the bond in his own name, in behalf of the town, and the money recovered shall be paid over to the successor of the supervisor in default, such successor having first given security as aforesaid. Whenever the office of a supervisor shall become vacant, by reason of the expiration of his term of service or otherwise, the county treasurer shall require the person elected or appointed to fill such vacancy to execute a bond, with two or more sureties, to be approved by the treasurer, in the penalty of at least double the sum of the school moneys remaining in the hands of the old supervisor, when the office became vacant, conditioned for the faithful disbursement, safe-keeping and accounting for such moneys. But the execution of this bond shall not relieve the supervisor from the duty of executing the bond first above mentioned.

Laws 1875, chap. 567, sec. 11, amending Laws 1864, chap. 555, sec. 31.

SECTION XXV.

SUPERVISORS TO AUTHORIZE COUNTY TREASURER TO EXTEND
TIME FOR COLLECTION OF TAXES.

To authorize the county treasurer to extend the time for the collection of state, county and town taxes, in any town or ward, to a period not beyond the first of April in any year. But no extension will be permitted in any case until the collector or receiver of taxes of the town, city or ward in which such extension shall be asked, shall pay over to the county treasurer all the taxes collected by him, renew his bond to the supervisor with such security as the said supervisor shall approve, and furnish evidence by his oath and such other competent testimony as such treasurer shall require, that he has been unable, for cause stated, to collect all the taxes within the time required by his warrant.

Laws 1875, chap. 482, sec. 1, subdivision 13.

SECTION XXVI.

SUPERVISORS TO IMPOSE TAX ON DOGS.

To impose a tax on dogs within the several towns for the purpose of providing means thereby to pay damages done to sheep by dogs, and to make proper provisions for the enforcement of the payment of such tax.

Laws 1875, chap. 482, sec. 1, subdivision 14.

SECTION XXVII.

TAX TO PAY ORDERS FOR SHEEP KILLED.

Whenever the amount of the order or orders for damages, given by the town auditors to the owner or owners of sheep killed or injured by dogs, shall exceed the amount of the dog fund in the hands of the supervisor of such town, it shall be lawful for the board of supervisors to add to the accounts of said town the amount of such order or orders

then due and unpaid; but the same shall in no case exceed the amount theretofore received into the dog fund of said town, and diverted therefrom for the purpose of building and repairing roads and bridges, or for the payment of contingent expenses of such town, for the three years next preceding the date of such order or orders.

Laws 1878, chap. 228.

Amending Laws 1864, chap. 197, sec. 5.

SECTION XXVIII.

SUPERVISORS TO AUTHORIZE ANY TOWN TO ELECT A TAX RECEIVER.

To authorize any town which shall make application therefor, by the vote of an annual town meeting, to elect a tax receiver in place of a collector, to prescribe the mode of the collection of taxes, the security to be given, and the commission or other compensation to be allowed to such tax receiver for his services.

Laws 1878, chap. 132, amending Laws 1875, chap. 482, sec. 1, subdivision 25.

SECTION XXIX.

SUPERVISORS TO DESIGNATE NUMBER OF ASSESSORS.

To designate, upon the application of any town, duly made by the vote of its electors at an annual town meeting, the number of assessors of such town, as their terms expire, not to exceed three, and when the number of assessors shall be reduced to one, to increase his compensation to an amount not exceeding three dollars per diem.

Laws 1875, chap. 482, sec. 1, subdivision 27.

SECTION XXX.

SUPERVISORS TO PROVIDE TAX TO PAY LOANS.

To provide for the assessment, levy and collection, in the

same manner as other town and county taxes are assessed, levied and collected, of any charge which may be incurred by any town or by the county at large, under the provisions of this act.

Laws 1875, chap. 482, sec. 1, subdivision 30. See subdivisions 6, 7, 20, 23 & 28 of same section. Also section 2, 3 and 4, same act.

SECTION XXXI.

SUPERVISORS OF COUNTIES TO PAY TROOPS WHILE ON DUTY AT REQUEST OF SHERIFF OR MAYOR.

All officers, non-commissioned officers, musicians and privates of the national guard, while on duty, or assembled therefor, pursuant to the order of the sheriff of any county or the mayor of any city, in cases of riot, tumult, breach of peace, resistance to process or whenever called upon in aid of the civil authorities, shall receive the compensation provided by the one hundred and sixty-fifth section of this act; and such compensation, and the necessary expenses incurred in subsisting, quartering and transporting the troops, shall be audited, allowed and paid by the supervisors of the county where such service is rendered, and shall be a portion of the county charges of said county, to be levied and raised as other county charges are levied and raised.

Laws 1878, chap. 275, sec. 66, amending Laws 1870, chap. 80, sec. 177. Sec. 32, see ante, chap. 5, sec. 20.

CHAPTER X.

DUTIES OF COLLECTOR.

SECTION I. Election of Collector.

- II. Tax Receiver may be Elected.
- III. Collector to Give Bond.
- IV. Proceedings if Collector Refuse to Serve; Warrant to Person Appointed.
- V. Proceedings where Collector Neglects to Qualify.
- VI. Supervisor to Deliver Assessment Roll.
- VII. Warrant to be Annexed; Its Contents.
- VIII. Duty of Collector and Liability.
- IX. Collectors Fees.
- X. Account to be Transmitted to County Treasurer.
- XI. Notice by Collector of Receipts of Tax Warrant; Fees.
- XII. Town Collectors Fees.
- XIII. Act Applicable to Kings County.
- XIV. Payment how Compelled.
- XV. Tax on Part of Lot.
- XVI. In Case of Refusal or Neglect, Payment how Compelled.
- XVII. Bond when Considered Assigned to County Treasurer.
- XVIII. Sale and Notice.
- XIX. Proceedings in Case of Removal of Person Taxed.
- XX. Tax on Corporations how Collected.
- XXI. Payment of Taxes by Rail Roads.
- XXII. Non-Resident Stockholders,
- XXIII. Collector to Pay Over.
- XXIV. When Collector is Stayed by Injunction.
- XXV. Over Tax.
- XXVI. Duty as to Unpaid Taxes.
- XXVII. Proceedings if Collector Refuse to Pay Over Moneys.
- XXVIII. Duty of Sheriff on Warrant against Collector.
- XXIX. Sheriff's Return.
- XXX. Satisfaction of Collector's Bond.
- XXXI. Losses on Account of Collectors, etc., on what to be Charged.
- XXXII. Sales for United States Direct Tax.
- XXXIII. Comptroller may Require Correct Returns.
- XXXIV. Where Premises of One Person Erroneously Assessed and Taxed in and with Premises of Another. Application to Apportion Taxes.
- XXXV. Duty of County Court. Duty of Collector.

SECTION I.

ELECTION OF COLLECTOR.

There shall be chosen at the annual town meeting, in each town, one collector.

1 Rev. Stat., 340, as amended, Laws 1866.
Chap. 30, 6 Ed. Rev. Stat., 671.

The collector shall be chosen by ballot, and is to hold office for one year, and until another is elected or appointed in his place. He shall be an elector of the town for which he is chosen.

1 Rev. Stat., 343, 345, 347.
1 Ed. Rev. Stat., 316, 318, 320.

If a town omits or neglects at its annual town meeting to choose a collector, one may be appointed by any three justices of the peace of said town by a warrant under their hands and seals within five days after such town meeting; The person so appointed will have the same powers and be subject to the same duties and penalties as if he had been duly chosen by the electors. If the justices of the peace fail to appoint it is the duty of the town clerk within thirty days thereafter to call special town meeting for the purpose of electing a collector.

Laws 1874, chap. 543.

SECTION II.

TAX RECEIVER MAY BE ELECTED.

By chapter 482 of the laws of 1875, as amended by chapter 132 of laws of 1878, any town may make application to the board of supervisors to have a receiver of taxes elected in place of a collector, and the board of supervisors are empowered to authorize the same and to prescribe the mode of the collection of taxes, the security to be given, and the commission or other compensation to be allowed to such tax receiver for his services.

SECTION III.

COLLECTOR TO GIVE BOND.

Every person chosen or appointed to the office of collector, before he enters on the duties of his office, and within eight days after he receives notice of the amount of the taxes to be collected by him, shall execute to the supervisor of the town and lodge with him, a bond with one or more sureties, to be approved of by such supervisor, in double the amount of such taxes, conditioned for the faithful execution of his duties as such collector.

1 Rev. Stat., 346.

1 Ed. Rev. Stat., 318.

See Form No. 6.

The supervisor shall within six days thereafter, file such bond, with his approbation indorsed thereon, in the office of the county clerk, who shall make an entry thereof, in a book to be provided for that purpose, in the same manner in which judgments are entered of record: and every such bond shall be a lien on all the real estate held jointly or severally by the collector or his sureties, within the county, at the time of the filing thereof: and shall continue to be such lien, till its conditions, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied.

1 Rev. Stat., 346.

1 Ed. Rev. Stat., 319, sec. 20.

If any person chosen or appointed to the office of collector, shall not give such security and take such oath, as is above required, within the time limited for that purpose, such neglect shall be deemed a refusal to serve.

Id. sec. 24.

The sureties in the official bond of the collector are *prima facie* liable for the amount unaccounted for by him, after the return of a warrant issued by the county treasurer

for the collection thereof, unsatisfied for want of goods, etc., whereon to levy.

Fake v. Whipple, 39 N. Y. Rep., 394.

The fact that the warrant was not delivered to the collector in time to enable him to give the notice requisite in order to enforce collection of the taxes thereon, is not a sufficient defense to an action against the sureties of the collector, without further proof that he has not actually received the money for such taxes.

Id.

SECTION IV.

PROCEEDINGS IF COLLECTOR REFUSE TO SERVE—WARRANT TO PERSON APPOINTED.

If any person chosen or appointed to the office of collector of any town or ward in this state, shall refuse to serve, or shall die, resign, or remove out of the town or ward, before he shall have entered upon or completed the duties of his office, or shall be disabled from completing the same, by reason of sickness or any other cause, the supervisor and any two justices of such town or ward, shall forthwith appoint a collector for the remainder of the year, who shall give the like security, and be subject to the like duties and penalties, and have the same powers and compensation, as the collector in whose place he was appointed; and the supervisor shall forthwith give notice of such appointment to the county treasurer. But such appointment shall not exonerate the former collector, or his sureties, from any liability incurred by him or them.

1 Rev. Stat., 399, sec. 11.

1 Ed. Rev. Stat., 371.

See Form No. 11,

If a warrant shall have been issued by the board of supervisors prior to any appointment under the last section, the original warrant, if the same can be obtained,

shall be delivered to the collector so appointed, and shall be considered as giving him the same powers as if originally issued to himself; but if such warrant can not be obtained, a new one shall be made out by the clerk of the board of supervisors of the county, which shall be directed to the collector so appointed. And upon every such appointment the supervisor of the town or ward, if he think it necessary, may extend the time limited for the collection of the taxes, for a period not exceeding thirty days; of which extension he shall forthwith give notice to the county treasurer.

1 Rev. Stat., 400.

1 Ed. Rev. Stat., 371.

SECTION V.

PROCEEDINGS WHERE COLLECTOR NEGLECTS TO QUALIFY.

In case the collector of any town in this state shall neglect or refuse to execute his bond, as required by law, or the supervisor of the town shall refuse or neglect to appear and file such bond within the time prescribed by law, and if no new collector shall have been appointed within ten days after the time for filing such bond as required by law has expired, the board of supervisors of such county are authorized and empowered to deliver the corrected assessment roll, or a copy thereof, with a warrant of said board of supervisors, or a majority of them annexed, to the sheriff of the county, who shall proceed in the collection of said taxes in like manner as collectors are now authorized by law to do, and with the like powers and subject to the same duties and obligations; such warrant shall require all payments therein specified to be made by such sheriff within sixty days after its receipt by him; and the expenses of such collection, if any, over and above the fees lawfully chargeable by the collector to be audited by the board of supervisors, shall be a charge on the town.

Laws 1857, chap. 585.

3 Ed. Rev. Stat., 375.

SECTION VI.

SUPERVISORS TO DELIVER ASSESSMENT ROLL.

The boards of supervisors of the several counties of the state, shall cause the corrected assessment roll of each town or ward in their respective counties, or a fair copy thereof, to be delivered to the collector of such town or ward, on or before the fifteenth day of December in each year.

1 Rev. Stat., 396, sec. 36.

1 Ed. Rev. Stat., 367.

SECTION VII.

WARRANT TO BE ANNEXED—ITS CONTENTS.

To each assessment roll so delivered to a collector, a warrant, under the hands and seals of the board of supervisors, or a majority of them, shall be annexed, commanding such collector to collect from the several persons named in the assessment roll, the several sums mentioned in the last column of such roll, opposite to their respective names.

If the warrant be directed to the collector of a town, it shall direct the collector, out of the moneys so to be collected, after deducting the compensation to which he may be legally entitled to pay :

1. To the commissioners of common schools of his town, such sum as shall have been raised for the support of common schools therein ;

2. To the commissioners of highways of the town, such sum as shall have been raised for the support of highways and bridges therein ;

3. To the overseers of the poor of the towns if there be no county poorhouse, or other place provided in the county for the reception of the poor, such sum as shall have been raised for the support of the poor in such town ;

4. To the supervisor of the town, all other moneys which

shall have been raised therein, to defray any other town expenses : and,

5. To the treasurer of the county, the residue of the moneys so to be collected.

If the warrant be directed to the collector of a ward, it shall direct the collector to pay all the moneys to be collected, after deducting his compensation, to the treasurer of the county.

In all cases, the warrant shall authorize the collector, in case any person named in the assessment roll shall refuse or neglect to pay his tax, to levy the same by distress and sale of the goods and chattels of such person ; and it shall require all payments therein specified to be made by such collector, on or before the first day of February then next ensuing.

1 Rev. Stat., 366, sec. 37.

1 Ed. Rev. Stat., 367.

See Form No. 7.

The fees of the collector are not to be added to the tax list and warrant, but are to be collected as prescribed hereafter.

Laws 1845, chap. 180, sec. 31.

3 Ed. Rev. Stat., 309.

Newman v. Supervisors of Livingston Co., 45 N. Y., 676.

Parish v. Golden, 35 N. Y., 462.

It shall be the duty of the board of supervisors to issue warrants to the collectors of towns requiring the paying over by them of all moneys raised and collected for highway and bridge purposes to the commissioners of highways of towns ; and it shall not be lawful for the board of supervisors of any county to issue warrants to town collectors, directing them to pay over any moneys raised and collected upon any town for highway and bridge purposes, to the village authorities of any incorporated village situated wholly or partly in the town.

Laws 1878, chap. 377, sec. 1.

SECTION VIII.

DUTY OF COLLECTOR AND LIABILITY.

The collector to whom such list shall be delivered shall proceed and collect the sums of money therein specified, within the time now required by law for the collection of taxes laid by said supervisors, in the same manner and with the like authority in all respects as in the collection of taxes imposed by the supervisors of the county, and shall pay the same to the county treasurer, after deducting the commissions allowed by law; and the same remedies to compel such collection, and the payment over of the moneys collected, may be had against such collectors and their sureties, as in the case of taxes levied by supervisors.

1 Rev. Stat., 704, sec. 5, as amended Laws 1866, chap. 244.

1 Ed. Rev. Stat., 656.

Asto liability of officers, see *National Bank of Chemung v. City of Elmira*, 53 N. Y. 49.

COLLECTION OF DOG TAX.

If any person duly assessed shall refuse or neglect to pay the tax so assessed, for five days after demand thereof, it shall be lawful for any person to kill the dog so taxed.

1 Rev. Stat., 704, sec. 6.

SECTION IX.

COLLECTOR'S FEES.

Every collector will be allowed to retain a commission of ten dollars on every hundred dollars collected, and at that rate upon all sums collected by him pursuant to the directions of the supervisors; and the said collector shall also, on filing his affidavit of the fact with the county treasurer, be entitled to retain as a further compensation from the

moneys collected by him the sum of one dollar for every dog or bitch killed by him under the provisions of the second section of this act.

1 Rev. Stat., 704, as amended Laws 1862, chap. 244.

1 Ed. Rev. Stat., 656.

In those counties where the supervisors have adopted the act of 1864, chap. 197, relative to dogs, as provided in such act, the collectors are to pay the tax collected on dogs to the supervisor of the town.

Laws 1864, chap. 197.

6 Ed. Rev. Stat., 241.

SECTION X.

ACCOUNT TO BE TRANSMITTED TO COUNTY TREASURER.

As soon as the board of supervisors shall have sent or delivered the rolls, with such warrants annexed, to the collectors, they shall transmit to the treasurer of the county an account thereof, stating the names of the several collectors, the amount of money they are respectively to collect, the purposes for which the same are to be collected, and the persons to whom, and the time when the same are to be paid; and the county treasurer, on receiving such account, shall charge to each collector the sums to be collected by him.

1 Rev. Stat., 397, sec. 38.

1 Ed. Rev. Stat., 368.

See Form No. 27.

SECTION XI.

NOTICE BY COLLECTOR OF RECEIPT OF TAX WARRANT—FEES.

Whenever any town collector shall have received any warrant for the collection of taxes, he shall immediately thereafter cause notices of the reception thereof to be posted up in five public places in the ward or town, and so located as will be most likely to give notice to the inhabitants

therof, and shall designate in such notices one or more convenient places in such town, where he will attend from nine o'clock, forenoon, till four o'clock, afternoon, at least three days in each week for thirty days, which days shall also be specified in such notice, for the purpose of receiving payment of taxes; and it shall be the duty of such collector to attend accordingly, and any person may pay his taxes to such collector at the time and place so designated, or at any other time or place, on paying one per cent. fees thereon, within thirty days from the first posting of said notices; and no collector shall receive over one per cent. fees for receiving or collecting any taxes within said thirty days. But every such collector shall be entitled to receive one per cent. fees on every amount of tax under one dollar paid in or collected within said thirty days, except in cases where it is now otherwise provided by law.

Laws of 1876, chap. 96, amending Laws 1845, chap. 180, sec. 29.

3 Ed. Rev. Stat., 308.

See Form of Notice, No 8.

Town collectors are allowed two per cent. fees on all voluntary payments made to them within the thirty days as now provided by law, on all cases where the aggregate amount to be collected by warrants when put into their hands shall not exceed the sum of two thousand dollars.

Laws 1847, chap. 482.

3 Ed. Rev. Stat., 318.

It shall be the duty of the collector, after the expiration of the said thirty days, to proceed and collect the unpaid taxes in the same manner, and shall pay over or account to the county treasurer, and shall be entitled to charge, collect and receive the same fees as now provided by law; which said fees shall be collected with such unpaid taxes from the several and respective persons named in said tax list.

Laws 1845, chap. 180, sec. 30.

3 Ed. Rev. Stat., 309, sec. 30.

Every collector upon receiving the tax list and warrant, shall proceed to collect the taxes therein mentioned, and

for that purpose shall call, at least once, on the person taxed, or at the place of his usual residence, if in the town or ward for which such collector has been chosen, and shall demand payment of the taxes charged to him on his property.

1 Rev. Stat., Title 3, Art. 3, p. 397.

1 Ed. Rev. Stat., 369.

Upon receipt of his warrant, the town collector of taxes is debtor to his county in the sum he is authorized to collect, and can be discharged only; 1st. By producing to the county treasurer the duplicate receipt of the officer to whom he is directed to pay over the moneys; or, 2nd. By making affidavit that certain tax remain unpaid, and that, upon diligent inquiry, he has been unable to discover any property of the person charged whereof to levy the same.

Fake v. Whipple, 39, N. Y., Rep., 394.

SECTION XII.

TOWN COLLECTOR'S FEES.

Town collectors shall be entitled to collect five per cent. fees for all unpaid taxes under the thirtieth section of the act hereby amended, and whenever any such collector shall make return to the county treasurer for any unpaid taxes, he shall add to the several sums so returned by him, five per cent. which shall go to the credit of the county; and be collected with said unpaid taxes; and such collector shall be entitled to receive from the county treasury, and be paid by the treasurer, two per cent. as fees for all taxes, so returned by him. The town collectors from the county of Kings, in addition to the per centage and interest authorized by sections five and six of chapter one hundred and fifty four of the laws of eighteen hundred and forty-one shall add the amount of their fees which shall go to the credit of the respective towns.

Laws 1875, chap. 474, sec. 1, amending laws 1847, chap., 455, sec. 16.

Matter of Nichols 54, N. Y., 63.

SECTION XIII.

ACT APPLICABLE TO COUNTY OF KINGS.

The provisions of section sixteen of said act, as amended under section one, are hereby made applicable to the county of Kings, and section twenty six of said act is repealed in so far as it may conflict with such application.

Id. sec. 2.

SECTION XIV.

PAYMENT, HOW COMPELLED.

In case any person shall refuse or neglect to pay the tax imposed on him, the collector shall levy the same by distress and sale of the goods and chattels of the person who neglect to pay the same, or of any goods and chattels in his possession, wheresoever the same may be found, within the district of the collector; and no claim of property to be made thereto by any other person shall be available to prevent a sale.

1 Rev. Stat., 397, 398.

1 Ed. Rev. Stat., 369.

In case the collector shall return that a tax or assessment on any estate is unpaid and he is unable to collect the same, the trustees are authorized and empowered after the lapse of thirty days after the date of such return, to prosecute a civil action against the owner or owners of such estate in the corporate name of the village, and recover judgment for such tax with twelve per cent. interest thereon, and all necessary costs and expenses of said action; said trustees may cause a transcript of such judgment to be filed and said judgment docketed in the county clerk's office of the county wherein the village is situated, and the same, however small the amount, shall thereupon become a judgment of the county court, and be a lien on all real estate of the judgment debtor situate in the county where said judg-

ment is docketed; and such real estate may be sold on execution issued to the sheriff of the county, where the judgment is docketed if not collected out of the personal property of the debtor, in the manner provided by law; and all the provisions of law in reference to sale and redemption of real estate on execution shall apply to sales and redemption under this act.

Laws 1870, chap. 291, Title 6, sec. 9.

Where the goods are actually in the possession of the party taxed, they cannot be replevied even though owned by a third person,

2 Rev. Stat., 522, 523, sec. 3, 4.

2 Ed. Rev. Stat., 540.

SECTION XV.

TAX ON PART OF LOT.

The collector shall receive the tax on a part of any lot, piece or parcel of land, charged with taxes, provided the person paying such tax shall furnish a particular specification of such part; and if the tax on the remainder of such lot, piece or parcel of land, shall remain unpaid, the collector shall enter such specification, in his return to the county treasurer, to the end that the part on which the tax remains unpaid, may be clearly known.

1 Rev. Stat., 399, sec. 8.

1 Ed. Rev. Stat., 371.

If the part on which the tax shall be so paid, be an undivided share, then the person paying the same, shall state to the collector who is the owner of such share, that it may be excepted in case of a sale for the tax on the remainder. And the collector shall enter the name of such owner on his account of arrears of taxes.

1 Rev. Stat., 399, sec. 8.

1 Ed. Rev. Stat., 371.

SECTION XVI.

IN CASE OF REFUSAL OR NEGLECT, PAYMENT HOW ENFORCED.

In case of the refusal or neglect of any person to pay any tax imposed on him for personal property, if there be no goods or chattels in his possession upon which the same may be levied by distress and sale according to law, and if the property assessed shall exceed the sum of one thousand dollars, the collector of the town or ward, if he has reason to believe that the person taxed has debts, credits, choses in action, or other personal property not taxed elsewhere in this state, and upon which levy cannot be made according to law, shall report the same to the assessors of the town or ward. Any assessor may thereupon in his discretion make application within one year to the court of common pleas of the county, or to the supreme court, to enforce the payment of such tax.

Laws 1842, chap. 318.

3 Ed. Rev. Stat., 346.

The neglect or refusal to pay such tax according to law, shall be held and deemed to be a neglect or violation of duty or misconduct within the provisions of title thirteen of chapter eight of the third part of the revised statutes: and the court upon application of an assessor as herein provided, and due proof, may proceed to enforce the payment or punish the misconduct in the manner, and with the like authority, as is provided in the above mentioned title of the revised statutes in regard to offences therein made punishable, or to the enforcing the payment of money by fine and imprisonment, or either of them.

Laws 1842, chap. 318, sec. 2.

3 Ed. Rev. Stat., 346.

The court may impose a fine for the misconduct mentioned in the next preceding section, sufficient in amount, for the payment of the tax assessed, and of the costs and expenses of the proceedings authorized by this act to enforce such

payment, or to punish such misconduct; and the amount of such tax shall be paid out of such fine, to the county treasurer of the county, who shall apply the same in like manner as the tax was required to be applied, if the same had been collected by the collector; and the costs and expenses of such proceedings shall be paid out of such fine to the assessor who made the application, to enforce the payment of the tax.

Laws 1842, chap. 318, sec. 3.

3 Ed. Rev. Stat., 346.

SECTION XVII.

BOND WHEN CONSIDERED ASSIGNED TO COUNTY TREASURER.

Whenever any bond taken under the provisions of this act, for the appearance of the defendant, shall become forfeited and shall be ordered to be prosecuted, such order shall operate as an assignment of the bond to the county treasurer of the county, who shall be authorized to prosecute the same in any court of record in his name, as county treasurer of such county, as the assignee of the officer to whom the bond was given, in the same manner as in other actions on bonds, with conditions to perform covenants, other than for the payment of money; and the measure of damages in such action shall be the extent of such tax and the costs and expenses of the proceedings to enforce the payment thereof, and shall be applied and paid in like manner as the fine mentioned in the next preceding section is therein directed to be applied and paid; and in all such actions, if the plaintiff recovers, he shall recover all costs against the defendant.

Laws 1842, chap. 318, sec. 4. 3 Ed. Rev. Stat., 347.

SECTION XVIII.

SALE AND NOTICE.

The collector shall give public notice of the time and place of sale, and of the property to be sold, at least six

days previous to the sale, by advertisements to be posted up, in at least three public places, in the town where such sale shall be made. The sale shall be by public auction.

1 Rev. Stat., 378, sec. 3.

1 Ed. Rev. Stat., 370.

See Form No. 13.

If the property distrained shall be sold for more than the amount of the tax, the surplus shall be returned to the person in whose possession such property was when the distress was made, if no claim be made to such surplus by any other person. If any other person shall claim such surplus, on the ground that the property sold belonged to him, and such claim be admitted by the person for whose tax the same was distrained, the surplus shall be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, the surplus moneys shall be paid over by the collector to the supervisor of the town, who shall retain the same until the rights of the parties shall be determined by due course of law.

1 Rev. Stat., 398.

1 Ed. Rev. Stat., 370.

SECTION XIX.

PROCEEDINGS IN CASE OF REMOVAL OF PERSON TAXED.

In case any person upon whom any tax now is, or hereafter shall be assessed, in any ward of any of the cities, or in any town within this state, shall have removed out of such ward or town, after such assessment, and before such tax ought by law to have been collected; or if any person shall neglect or refuse to pay any tax which now is, or hereafter shall be assessed in any ward of either of the said cities, or in any town, upon any estate of such person situated out of the ward or town in which he shall reside, and within the county; it shall be lawful in either of those cases, for the collector of such ward or town, to levy and collect such tax of the goods and chattels of the person

assessed, in any ward within the said cities, or in any town within the said county, to which such person shall have so removed, or in which he shall residé.

1 Rev. Stat., 398.

1 Ed. Rev. Stat., 370.

Whenever it shall satisfactorily appear to the treasurer of any county in the state, that any state or county tax legally assessed within his county, (not assessments on real estate of non-residents,) cannot be collected by reason of the removal of the person so assessed to any other county of this state, it shall be lawful for the said treasurer to issue a warrant under his hand and seal, and certified by the clerk of the county, that he is such treasurer, to any constable or sheriff of the county where such person resides, to collect the same out of the personal property of such person.

Laws 1836, chap. 461.

3 Ed. Rev. Stat., 344.

It shall be lawful for such treasurer to issue subpoenas for witnesses, and take testimony in relation to such assessment and removal and to administer oaths to such witnesses.

Id., Chap. 461.

Any sheriff or constable receiving such warrant, shall execute the same, and make the like returns, and be entitled to the same fees, and subject to the same liabilities and penalties for neglect, as upon executions from any court.

Laws 1836, chap. 461, sec. 3.

3 Ed. Rev. Stat., 344.

SECTION XX.

TAX ON CORPORATIONS HOW COLLECTED.

The collector shall demand payment of all taxes assessed on incorporated companies, from the president, or other proper officer, of such companies, and if not paid, shall proceed in the collection and payment thereof, in the same

manner as in other cases, and shall be liable to the same penalties for the non-payment of moneys collected by him, and the collector's receipt shall be evidence of the payment of such tax.

1 Rev. Stat., 417, sec. 17.

1 Ed. Rev. Stat., 376.

If the collector shall not be able to collect any tax assessed upon an incorporated company, he shall return the same to the county treasurer, and at the same time, make affidavit before the county treasurer, or some other officer authorized to administer oaths, that he demanded payment thereof from the president, or other proper officer of the company, and that such officer had refused to pay the same, or that he had not been able to make such demand, as the case may be; and that such company had no personal property, from which he could levy such tax.

1 Rev. Stat. 418, Sec. 19.

1 Ed. Rev. Stat., 377.

See affidavit of Demand on Corporations, Form No. 12.

Such taxes shall be paid out of the funds of the company, and shall be rateably deducted from the dividends of those stockholders whose stock was taxed, or shall be charged upon such stock, if no dividends be afterwards declared.

1 Rev. Stat., 417, sec. 18.

1 Ed. Rev. Stat., 377.

The county treasurer shall thereupon certify such facts to the comptroller, who shall pass to the credit of such county treasurer the amount of all taxes so returned and certified, as in the cases of taxes on the lands of non-residents.

Id., sec. 20.

SECTION XXI.

PAYMENT OF TAXES BY RAILROADS.

Any railroad company heretofore organized under the laws of this state, or that may be hereafter organized, may,

within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent. fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

Laws 1870, chap. 506, sec. 2.
7 Ed. Rev. Stat., 750.

In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the collector of all towns or cities in their county, in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent. fees; but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said counties by the supervisors of the county, until the receipt of such notice from the county treasurer.

Laws 1870, chap. 506, sec. 3.
7 Ed. Rev. Stat., 750

The several amounts of tax so received by the county treasurer, of and from railroad companies, shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent. fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city, the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

Id., sec. 4.

Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law.

Laws 1870, chap. 506, sec. 5.
7 Ed. Rev. Stat., 750.

The above act applies to all the counties of this state, except the counties of New York and Kings.

SECTION XXII.

NON-RESIDENT STOCKHOLDERS.

When the owner of stock in any bank or banking association, organized under the laws of this, or of the United States, shall not reside in the same place where the bank or banking association is located, the collector and county treasurer shall, respectively, have the same powers as to collecting the tax to be assessed by this act, as they have by statute, when the person assessed has removed from the town, ward or county in which the assessment was made; and the county treasurer, receiver of taxes, or other officer authorized to receive said tax from the collector, may all or either of them have an action to collect the tax from the avails of the sale of his shares of stock, and the tax on the share or shares of said stock shall be and remain a lien thereon till the payment of said tax.

Laws 1866, chap. 761, sec. 5.
6 Ed. Rev. Stat., 827.

SECTION XXIII.

COLLECTOR TO PAY OVER.

Every collector shall, within one week after the time mentioned in his warrant, for paying the moneys directed to be paid to the town officers of his town and to the county treasurer, pay to such town officers and county treasurer, the sums required in such warrant to be paid to them respect-

ively, first retaining the compensation to which he may be legally entitled. The town officers to whom any such moneys shall be paid, shall deliver to the collector duplicate receipts therefor; one of which duplicates shall be filed by the collector with the county treasurer, and shall entitle him to a credit, in the books of the county treasurer, for the amount therein stated to have been received; and no other evidence of such payment shall be received by the county treasurer.

1 Rev. Stat., 398.

1 Ed. Rev. Stat., 370.

All moneys raised and collected upon the taxable property of any of the towns of this state for highway and bridge purposes shall be paid over by town collectors, of taxes to the commissioners of highways of the towns in which said moneys are so raised and collected, and to no other officer or person whatever.

Laws 1878, chap. 377, sec. 1.

Such payment is not to be made to the village authorities of any incorporated village situated wholly or partly in any town.

Id.

This act shall not apply to incorporated villages constituting a separate road district or to special road districts of this state now provided by special act.

Id. sec. 3.

COLLECTOR IN VILLAGES.

The tax roll when completed shall be immediately delivered by the clerk to the collector with a warrant thereunto annexed, signed by the president and countersigned by the clerk commanding him to collect the taxes therein specified with his fees, and return said warrant and roll within sixty days after the date of the warrant unless the time shall be extended. The board of trustees may extend the time for the return of such warrant thirty days beyond the first sixty

days, and such extension shall in no event affect the validity of the bond given by the collector and his sureties.

Laws 1870, chap. 291, title 6, sec. 4.

The collector shall give a receipt to the clerk for the warrant and tax or assessment rolls delivered to him on his receiving the same.

Laws 1870, chap. 291, title 5, sec. 5,

After receiving the tax roll the collector shall post notices in five public places in the village twelve days before the last one of the three days specified in the notice, stating that he will attend at a convenient place, specified in the notice, in the village, on three days specified within fifteen days from date of notice, for the purpose of receiving payment of taxes; and he shall attend at such time and place accordingly. Any person or corporation paying any tax or assessment within fifteen days from date of notice shall be charged with one per cent. thereon for the fees of the collector and no more, after the expiration of the fifteen days the collector shall collect the taxes or assessments unpaid with five per cent. thereon as his fees, in the same manner as is now provided by law for the collection of town and county taxes, and with like power and authority as collector of taxes of towns.

Laws 1870, chap. 291, title 5 sec. 5.

The collector shall collect and receive all taxes and assessments for which the warrant of the board of trustees subscribed by the president and countersigned by the clerk, shall be delivered to him and within the time specified in such warrant, and shall pay the same into the hands of the treasurer without delay and take receipt for the same, and make return to the clerk of the amount of taxes collected by him and paid over to the treasurer and of taxes unpaid.

Laws, 1870, chap. 291, title 5, sec. 5.

All taxes or assessments which shall remain unpaid for thirty days after the final return of said warrant shall bear

interest at the rate of twelve per cent. per annum from and after the date of such return, and shall be collected, as directed herein, either by the sale of the estate assessed, as herein provided, or by suit against the party liable to pay such assessment or tax.

Laws 1870, chap. 291, title 6, sec. 5,

SECTION XXIV.

COLLECTION OF TAXES—WHEN STAYED BY INJUNCTION.

In all cases where proceedings for the collection of taxes are by injunction or order or other proceeding of a court of record, stayed or suspended before the time allowed by law for the collectors' return, or in case such collection shall be so stayed by several or successive orders, injunctions or proceedings, the collector shall make his return at the time appointed by law of such portion of such taxes as have been collected by him, if any, and set forth the facts of such stay or suspension, and the collector or other officer having a warrant or process for the collection thereof, if the stay or suspension commenced within thirty days from the time of the receiving of the warrant by him, may, within sixty days, or if the stay or suspension shall not have commenced within thirty days from the time of the receiving of the warrant by him, may, within thirty days after such stay or suspension of proceedings is terminated or removed, or in case of several or successive stays or suspensions, then after the termination or removal of the last thereof, and notwithstanding the period for the collection of such taxes under such warrant or process may have expired, and notwithstanding the term of office of such collector holding such warrant may have expired, proceed in the same manner and with the same effect to collect the same as if his warrant or process were still in force, and the same shall be deemed in full force and effect for such purposes.

Any collector of taxes who shall at the time of the passage of this act hold a warrant duly issued to him for the collection of taxes upon which proceedings shall have been stayed or suspended in the manner stated in the last section, and which stay or suspension shall be removed, may proceed to collect the taxes which shall remain uncollected thereon in the same manner and within the same time, as is provided after the termination or stay in the last section, such time to commence at the date of the passage of this act.

Laws of 1879, chap. 492, amending chap. 69, Laws 1853.

SECTION XXV.

OVER TAX.

Whenever any greater amount of taxes shall be assessed in any town than the town charges thereof, and its proportion of the state tax, and county charges, the surplus shall be paid by the collector to the county treasurer, who shall place it to the credit of such town, and the same shall go to the reduction of the tax of the succeeding year.

1 Rev. Stat., 399.

1 Ed. Rev. Stat., 371.

SECTION XXVI.

DUTY AS TO UNPAID TAXES.

If any of the taxes mentioned in the tax list annexed to his warrant shall remain unpaid, and the collector shall not be able to collect the same, he shall deliver to the county treasurer an account of the taxes so remaining due; and upon making oath before the county treasurer, or in case of his absence, before any justice of the peace, that the sums mentioned in such account remain unpaid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels, belonging to, or in the posses-

sion of, the persons charged with, or liable to pay such sums, whereon he could levy the same, he shall be credited by the county treasurer with the amount thereof.

1 Rev. Stat., 399. 574ms 415

1 Ed. Rev. Stat., 371.

On making the above return, the collector is to copy all the unpaid items in that part of his list appropriated to non-resident taxes, in a separate statement from the items charged against residents.

See Form of Oath, No. 9.

The collector is required to deposit the original assessment roll with the county treasurer at the time of making his return.

Laws 1855, chap. 427, sec. 4.

3 Ed. Rev. Stat., 358.

Whenever the taxes upon the lands of a non-resident shall be returned for non-payment, to the county treasurer, the collector shall annex to such return an affidavit, stating the reasons why such tax was not collected.

Id., sec. 6.

SECTION XXVII.

PROCEEDINGS IF COLLECTOR REFUSE TO PAY OVER MONEYS.

If any collector shall refuse or neglect to pay to the several town officers of his town or to the county treasurer, the sums required by his warrant to be paid to them respectively, or either of them, or to account for the same as unpaid, the county treasurer shall, within twenty days after the time when such payments ought to have been made, issue a warrant under his hand and seal, directed to the sheriff of the county, commanding him to levy such sum as shall remain unpaid and unaccounted for by such collector, of the goods and chattels, lands and tenements of such collector, and to pay the same to the county treasurer, and return such warrant within forty days after the date

thereof; which warrant the county treasurer shall immediately deliver to the sheriff of the county; but no such warrant shall be issued by the county treasurer for the collection of moneys payable to town officers, without proof, by the oath of such town officers, of the refusal or neglect of the collector to pay the same, or account therefor as above provided.

1 Rev. Stat., 400, sec. 13.

1 Ed. Rev. Stat., 372.

Looney v. Hughes, 26 N. Y., 514.

In all cases where any county treasurer shall issue his warrant against a defaulting collector, the said warrant shall direct the sheriff to collect of the said collector, in addition to the amount in which the said collector shall be in default, all costs and fees for collecting.

The said sheriff shall receive the same fees as on execution issued out of the supreme court.

Laws 1862, chap. 194.

3 Ed. Rev. Stat., 379.

SECTION XXVIII.

DUTY OF SHERIFF ON WARRANT AGAINST COLLECTOR.

The sheriff to whom such warrant is directed, shall immediately cause the same to be executed, and shall make return thereof to the county treasurer, within the time therein specified, and shall pay to him the money levied by virtue thereof, deducting for his fees the same compensation that the collector would have been entitled to retain. Such part of the moneys collected, if any, as ought to have been paid by the collector to town officers, shall be paid by the county treasurer to the officers to whom the collector was directed to pay the same; but if the whole amount of moneys due from the collector, shall not be collected in such warrant, the county treasurer shall first retain the amount which ought to have been paid to him, before making any payment to the town officers.

1 Rev. Stat., 400, sec. 14.

1 Ed. Rev. Stat., 372.

Overing v. Foote, 43 N. Y. R., 290.

SECTION XXIX.

SHERIFF'S RETURN.

If the whole sum due from the collector shall be collected, the sheriff shall so state in his return; but if a part only, or if no part of such sum shall be collected, the sheriff shall state in his return the amount levied, if any, exclusive of his fees, and shall also certify that such collector has no goods or chattels, lands or tenements, in his county, from which the moneys or the residue thereof, as the case may be, could be levied; and in either case, the county treasurer shall forthwith give notice to the supervisor of the town or ward, of the amount due from such collector.

1 Rev. Stat., 400, 401, sec. 15.

1 Ed. Rev. Stat., 372.

The supervisor shall forthwith cause the bond of such collector to be put in suit, and shall be entitled to recover thereon the sum due from such collector, with costs of suit, and the moneys recovered shall be applied and paid by the supervisor, in the same manner in which it was the duty of the collector to have applied and paid the same.

1 Rev. Stat., 401. sec. 16.

1 Ed. Rev. Stat., 373.

If any sheriff shall neglect to return any such warrant or to pay the money levied thereon, within the time limited for the return of such warrant; or shall make any other return than such as is above mentioned, the county treasurer shall forthwith proceed to collect, by attachment, the whole sum directed to be levied by such warrant.

Id. sec. 17.

In case the county treasurer shall fail to collect such moneys by attachment, he shall certify to the comptroller, that he has issued such warrant, stating its contents, that the sheriff has neglected to return the same, in the manner

required by law, or to pay the money levied thereon, as the case may be, and that he has pursued the remedy, by attachment, without effect.

1 Rev. Stat., 401, sec. 18..

1 Ed. Rev. Stat., 373,

The comptroller shall give notice thereof, to the attorney-general, who shall immediately prosecute such sheriff, and his sureties, for the sum due on such warrant, which sum, when collected, shall be paid to the treasurer of this state, and by him, on the comptroller's warrant, to the county treasurer.

Id. sec. 19.

SECTION XXX.

SATISFACTION OF COLLECTOR'S BOND.

Upon the settlement of the amount of taxes, directed to be collected by any collector, in any of the towns or wards in this State, (the city of New York excepted,) the county treasurer shall, if requested, give to such collector, or to any of his sureties, a satisfaction piece in writing, and shall acknowledge the same, before some person authorized to take acknowledgments of the satisfaction of judgments in courts of record.

1 Rev. Stat., 401, sec. 20.

3 Ed. Rev. Stat., 373.

Upon the production of such satisfaction piece, acknowledged as aforesaid, the clerk of the county shall enter satisfaction of record of the collector's bond, which shall thereby be discharged.

Id. sec. 21.

The officers taking and entering such acknowledgment of satisfaction, shall be entitled to the same fees as for taking and entering acknowledgment of satisfaction of a judgment in the courts of common pleas.

1 Rev. Stat., 401, sec. 22,

1 Ed. Rev. Stat., 373.

SECTION XXXI.

LOSSES ON ACCOUNT OF COLLECTOR, &C., ON WHAT TO BE CHARGED.

All losses which may be sustained and any deficiencies which may exist by reason of the default of the collectors of any town or ward, shall be chargeable on such town or ward. All losses which may be sustained and any deficiencies which may exist by the default of the treasurer of any county in the discharge of the duties imposed by law, shall be chargeable to such county: and any judgment heretofore obtained or which shall hereafter be obtained against such treasurer for any deficiency on account of the state tax, and where an execution shall have been issued thereon and returned unsatisfied, shall be conclusive as to the fact of such loss or deficiency, and shall thereupon become a charge against such county, and the several boards of supervisors shall add such losses or deficiencies to the next year's taxes of such town or county, and shall proceed to levy the same as other charges against said county or town are levied.

Laws 1866, chap. 528.

6 Ed. Rev. Stat., 770.

1 Rev. Stat., 419.

1 Ed. Rev. Stat., 379, sec. 5,

If any collector shall willfully neglect or refuse to perform the duties assigned him, he shall be deemed guilty of a misdemeanor, and on conviction shall be punished by fine or imprisonment, or both, in the discretion of the court.

1 Rev Stat., 421, sec. 15.

1 Ed. Rev. Stat., 381,

SECTION XXXII.

SALES FOR UNITED STATES DIRECT TAX.

Whenever it shall appear to the comptroller, that any charge of arrears of the direct tax of the United States, returned to his office as unpaid, has been paid to any of

the collectors of that tax, or that the same lands have been twice charged with the same tax, he shall cancel the erroneous charge on the books of his office.

1 Rev. Stat., 419, sec. 6.

1 Ed. Rev. Stat., 380.

SECTION XXXIII.

COMPTROLLER MAY REQUIRE CORRECT RETURNS.

If, in consequence of having received irregular and imperfect descriptions of the lands of non-residents in any town, the comptroller shall apprehend that irregular or imperfect returns may again be received, he may give notice of such apprehension to the board of supervisors of the proper county at their annual meeting, specifying the several towns in such county, the returns from which will probably require correction.

1 Rev. Stat., 420, sec. 7.

1 Ed. Rev. Stat., 380.

It shall be the duty of such board of supervisors to require the assessors and the collector of such town, specified in the notice of the comptroller, to meet in such town at such place as shall be designated by the supervisors, within thirty days of the expiration of the time, when the collectors are to make their returns to the county treasurers.

Id. sec. 8.

It shall be the duty of the assessors and collectors to meet pursuant to such requisition. The collectors shall specify to the assessors, the several lots to be returned as non-resident property, by reason of non-payment of the taxes; and the assessors shall arrange the same according to the provisions of this chapter, and shall examine the descriptions of the lots; and in case any of them are found erroneous and imperfect, they shall correct the same conformable to such instructions as may have been receiv-

ed from the comptroller, and the collector shall thereupon return the lots as arranged and described by the assessors, to the county treasurer.

1 Rev. Stat., 420, sec. 9.

1 Ed. Rev. Stat., 380.

SECTION XXXIV.

WHERE PREMISES OF ONE PERSON ERRONEOUSLY ASSESSED
AND TAXED IN AND WITH PREMISES OF ANOTHER—
APPLICATION TO APPORTION TAXES.

When the premises of one person shall have been wrongfully assessed and taxed in and with the premises of another, the person aggrieved thereby may, upon application to the county court of the county in which the property is situated, on petition duly verified, and on eight days' notice to the assessors of the town in which the premises is situated, and to the party whose premises are included in such wrongful assessment, his executors or administrators, have his taxes or assessments apportioned by such county court, at a regular term thereof, or at chambers, in such manner as to the said court may seem just and proper.

Laws 1875, chap. 331, sec. 1.

SECTION XXXV.

DUTY OF COUNTY COURT—DUTY OF COLLECTOR.

The said county court shall ascertain the boundaries, the premises and the rate of taxation in said town, and shall fix and specify the amount of said tax or assessment properly chargeable to the petitioner's property, and to the other party chargeable therewith; and the collector or receiver of taxes of the town in which the premises are

situated, upon receiving a certified copy of said order, shall forthwith change the tax and assessment books of said town to conform to the apportionment made by said order.

The said collector or receiver shall, upon receiving the amount so apportioned upon the premises of said petitioner, receipt for the same in full discharge of the lien thereof upon the property of said petitioner.

Laws 1875, chap. 331, sec. 2 and 3.

CHAPTER XI.

DUTIES OF COMPTROLLER.

SECTION I. Attorney General to File Petition in Supreme Court.

- II. Comptroller's Certificate or Deed ; May assign to Counties Certificate of Tax Sales.
- III. State Tax when to be Paid ; How Paid.
- IV. Certificate of Unpaid Taxes.
- V. Apportionment of State Tax.
- VI. Lands imperfectly Described.
- VII. Arrears how Paid.
- VIII. Accounts with County Treasurer.
- IX. To Furnish Statement of Arrears ; Rejected Taxes.
- X. Taxes on Lands Imperfectly Described.
- XI. Transcript to be Delivered to Supervisor.
- XII. Tax When Cancelled ; Account to be Transmitted to Supervisor.
- XIII. Overpaid Taxes.
- XIV. Interest on Unpaid Taxes.
- XV. Certificate of Taxes Due.
- XVI. Persons may Pay Tax for their Interest in Land.
- XVII. Taxes how Paid ; Overcharges.
- XVIII. Overcharges to be Charged to County ; Town to be Liable Therefor.
- XIX. Lands on which State has a Lien, Not to be Sold at Tax-Sale.
- XX. How Lien Discharged.
- XXI. In case Payment Shall Not be Made.
- XXII. Land Bonded to the State when Re-Sold.
- XXIII. Comptroller Authorized to Admit Unpaid Taxes of 1879.
- XXIV. Comptroller Empowered to Issue Bonds in Anticipation of State Tax ; Proceeds to be Applied to the Current Expenses of the Government ; Limit of Gross Amount ; Appropriation.
- XXV. Comptroller Annually to draw Warrant on Treasurer for National Guard ; Amount.

SECTION I.

ATTORNEY-GENERAL TO FILE PETITION IN SUPREME COURT.

The comptroller shall furnish the attorney-general, with the names of all companies and banks refusing or neglecting to pay the taxes imposed on them, with the amount due from them respectively; and the attorney-general shall thereupon file a petition in the supreme court, against every such company, or bank, for the discovery and sequestration of its property.

Laws 1857, chap. 456.

3 Ed. Rev. Stat., 373.

1 Ed. Rev. Stat., 377.

1 Rev.Stat., 418.

The supreme court, on the filing of such petition, or on the coming in of the answer thereto, may order such part of the property of such company or bank to be sequestrated as shall be deemed necessary for the purpose of satisfying the taxes in arrears, with the costs of prosecution; and the court may also, at its discretion, enjoin such company or bank, and the officers thereof, from any further proceedings under their charter or act of incorporation, and may order and direct such other proceedings as shall be deemed necessary to compel the payment of such taxes and costs.

Laws 1857, chap. 456, sec. 6.

3 Ed. Rev. Stat., 373.

1 Rev. Stat., 418.

The attorney-general may also recover such tax, with costs, from such delinquent company, by action in any court of record in this state.

Id.

SECTION II.

COMPTROLLER'S CERTIFICATE OR DEED—MAY ASSIGN TO COUNTIES CERTIFICATE OF TAX SALES.

Every certificate or conveyance executed by the comptroller in pursuance of the provisions of this chapter may be recorded in the same manner, and with the like effect, as a deed regularly acknowledged or proved, before any officer authorized by law, to take the proof and acknowledgement of deeds.

1 Rev. Stat., 420.

1 Ed. Rev. Stat., 380, sec. 10.

Comptroller may assign to counties certificate of tax sales owned by state, and cancel bids and issue certificates of sales to the counties.

Laws 1879, chap. 382,

SECTION III.

STATE TAX WHEN TO BE PAID—HOW PAID.

The several county treasurers shall, on or before the first day of March in each year, pay to the treasurer of this state, the amount of the state tax, if any, raised and paid over to them respectively, retaining the compensation to which they may be entitled.

Laws 1855, chap. 427, sec. 2. 3 Ed. Rev. Stat., 357.

Such payment may also be made by depositing such money, to the credit of the treasurer of this state in such banks in the cities of New York or Albany as shall have been designated by the comptroller, and shall then be entitled to receive the state deposits, and in case of such payment to either of those banks, the county treasurer making it, shall forthwith transmit a certificate of deposit to the comptroller, who shall thereupon certify such payment to the state treasurer, and charge him with the amount thereof.

Id. sec. 3.

SECTION IV.

CERTIFICATE OF UNPAID TAXES.

Whenever any county treasurer shall receive from a collector an account of unpaid taxes assessed on lands of non-residents, such county treasurer shall compare the same with the original assessment roll, which original rolls the collectors are required in all cases to return and deposit with their respective county treasurers; and if he finds it to be a true transcript thereof, he shall add to it a certificate showing that he has examined and compared the account with the assessment roll, and found the same to be correct; and after crediting the collector with the amount, shall, before the first day of April next ensuing, transmit the account and the collector's affidavit, to the comptroller, with a certificate that he has compared the account with the entries of the same taxes in the original assessment roll, and has found the same to be a true transcript of such roll.

Laws 1855, chap. 427, sec. 4.

3 Ed. Rev. Stat., 358.

See Form No. 10.

SECTION V.

APPORTIONMENT OF STATE TAX.

The comptroller shall, from the annual returns made to him of the valuations of real and personal estates in the several counties in this state, charge the several county treasurers with the amount of the state taxes, if any, to be raised in their respective counties, crediting them with their own fees; but no fees shall be allowed by the comptroller to the county treasurers, in adjusting the accounts of the county treasurers, for such portion of the state tax as is paid by credit given for taxes on non-resident property returned to him.

Laws 1855, chap 427, sec. 8,

2 Ed. Rev. Stat., 358.

SECTION VI.

LANDS IMPERFECTLY DESCRIBED.

Whenever any account of arrears of taxes on lands of non-residents shall be received by the comptroller from a county treasurer, he shall examine such account and reject all taxes entered thereon, that shall be found to be erroneous, and all taxes found thereon charged on lands erroneously or imperfectly described, and shall credit such county treasurer in a book to be kept by him for that purpose, with the amount of all arrears, of taxes, which shall be admitted by him.

Laws 1878, Chap. 152. sec. 2, amending Laws of 1855, chap. 427, sec. 9.

3 Ed. Rev. Stat., 359.

Tallman v. White, 2 N. Y., 66

SECTION VII.

ARREARS HOW PAID.

If the arrears so credited to the treasurer of any county shall exceed the state tax, if any, in said county, the comptroller shall cause the surplus, after deducting therefrom any balance which may be due from such county on account of taxes previously rejected by the comptroller, to be paid out of the treasury of this state, to the treasurer of the county; and the whole amount of taxes so to be assumed by the state, shall be collected for its benefit, in the manner hereinafter provided. If there be no state tax, the whole amount of such arrears, after deducting such balance as above mentioned, shall be paid to the county treasurer.

Laws 1855, chap. 427, sec. 10.

3 Ed. Rev. Stat., 359.

SECTION VIII.

ACCOUNTS WITH COUNTY TREASURER.

The comptroller shall state the accounts of the several county treasurers, on the first day of May in every year;

and whenever any part of a state tax shall appear to be unpaid by any county treasurer, the comptroller shall transmit by mail to such county treasurer a copy of his account, requiring him to pay the balance within thirty days.

Laws 1855, chap. 427, sec. 11.

3 Ed. Rev. Stat., 359.

If any county treasurer shall refuse or neglect to pay such balance within such time, the comptroller shall forthwith (unless he shall be satisfied by due proof that such treasurer has not received such balance, and has taken all proper steps to collect the same), deliver a copy of such county treasurer's account to the attorney-general, who shall prosecute forthwith; and the state shall be entitled to recover the balance due, with interest thereon, from the first day of May, in the year when the same ought to have been paid.

Id. sec. 12.

The comptroller may also, in his discretion, direct the board of supervisors of the proper county to institute one or more suits on the bond of such treasurer and his sureties.

Id., sec. 13.

If the defendants in any suits to be brought under either of the last two preceding sections, shall at any time before judgment is obtained therein, pay the balance due the state, with interest, into the treasury, or account for the same to the comptroller; it shall be his duty, on payment of costs of suit, to direct such suits to be discontinued.

Id., sec. 14.

SECTION IX.

TO FURNISH STATEMENT OF ARREARS—REJECTED TAXES.

It shall be the duty of the comptroller, on or before the first Tuesday in October, in every year, to furnish the boards of supervisors of the several counties, from which

returns of arrears of taxes shall have been received at his office, with statements of the sums paid out of the state treasury, to their respective county treasurers, on account of such arrears during the year.

Laws 1855, chap. 427, sec. 15.
3 Ed. Rev. Stat., 359.

The comptroller shall, on or before the first day of September in each year, transmit by mail or otherwise, to each county treasurer, a transcript of the taxes of the preceding year, assessed in any town or ward in such county, which shall have been rejected by him for any cause whatever, stating therein the cause of such rejection.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 16.
3 Ed. Rev. Stat., 359.

SECTION X.

TAXES ON LAND IMPERFECTLY DESCRIBED.

Whenever the comptroller, after having transmitted such annual transcript, shall discover that any taxes credited to a county in the books of his office are erroneous, or that they have been assessed on land erroneously described, or so imperfectly described that they cannot, in his opinion, be located with certainty, he shall cancel such taxes on the books of his office, and charge them to the county in which such lands shall lie, with the interest thereon, from the first day of March, in the year following that in which the taxes were laid to the first day of February next after such cancellation.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 17.
3 Ed. R. S., 360.

SECTION XI.

TRANSCRIPT TO BE DELIVERED TO SUPERVISOR.

The comptroller shall also transmit, by mail or otherwise, a transcript of the returns of such taxes, with the addi-

tion of such interest, to the proper county treasurer, who shall deliver the same to the supervisor of the town or ward in which such taxes were assessed, by whom it shall be delivered to the board of supervisors, at their next meeting. If the town or ward in which such taxes were originally assessed, shall have been divided since such assessment, the county treasurer shall deliver such transcript to the board of supervisors at their next meeting.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 18.
3 Ed. Rev. Stat., 360.

SECTION XII.

TAX, WHEN CANCELLED, ACCOUNT TO BE TRANSMITTED TO SUPERVISORS.

Whenever it shall be made to appear to the comptroller that any tax returned as unpaid was, previously to such return, paid to the collector or county treasurer, the comptroller shall cancel such tax on the books of his office; and if the same shall have been also paid into the state treasury, he shall cause it to be repaid out of the treasury, to the person by whom such payment shall have been made.

Laws 1855, chap. 427, sec. 22.
3 Ed. Rev. Stat., 361.

Whenever any tax shall be so cancelled by the comptroller, he shall transmit an account thereof to the treasurer of the proper county, who shall cause the same to be laid before the board of supervisors thereof, and the amount of such tax with the interest shall be collected by them of the collector or county treasurer, who made such erroneous returns, and be paid into the treasury of this state.

Id. sec. 23.

SECTION XIII.

OVERPAID TAXES.

Whenever it shall appear satisfactorily to the comptroller that the amount of any tax has been paid, and afterwards other money has been paid into the treasury of this state, on account of such tax; and in cases where it shall appear that the amount due for any tax has been overpaid, he may draw his warrant on the treasurer for the amount so overpaid, in favor of the person who may have made such payment.

Laws 1855, chap. 427, sec. 24.
3 Ed. Rev. Stat., 361.

SECTION XIV.

INTEREST ON UNPAID TAXES.

If any tax charged on lands of non-residents, or lands returned as under section five of this act, shall remain unpaid until the first day of August following the year in which they shall have been assessed, they shall thereafter be subject to a yearly interest, at the rate of ten per cent., until the same shall be duly paid or the lands sold, as hereinafter provided.

Id. sec. 26.

SECTION XV.

CERTIFICATE OF TAXES DUE.

The comptroller shall, from time to time, give to any person desiring to pay the taxes, interest and charges due on any tract, piece or parcel of land, a certificate of the amount of such taxes, interest and charges; and the state trasurer may receive such taxes, interest and charges and

give a receipt therefor upon such certificate, which shall be countersigned by the comptroller, and entered in the books of his office.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 27.
3 Ed. Rev. Stat., 361.

SECTION XVI.

PERSONS MAY PAY TAX FOR THEIR INTEREST IN LANDS.

Whenever a sum in gross is assessed upon any tract, piece or lot of land, any person claiming a divided or undivided part thereof, may pay to the treasurer of the state any part of the tax, interest, and charges due thereon, proportionate to the number of acres claimed by him, on the certificate of the comptroller; and the remaining tax, interest and charges shall be a lien on the residue of the lands only.

Laws 1855, chap. 427, sec. 28.
3 Ed. Rev. Stat., 361.

If the tract be subdivided, the person wishing to pay the tax upon a divided part of it, shall deliver to the comptroller a map of the subdivisions if required by him.

Id. sec. 29.

SECTION XVII.

TAXES HOW PAID—OVERCHARGES.

Any person may pay the tax for any one year, and the interest and charges thereon, on any tract or lot of land, without paying the tax of any other year; and in case any tract or lot of land shall have been returned as containing a greater quantity of land than it shall actually contain, the amount overcharged shall be deducted, or if the tax shall have been paid according to such return, shall be refunded out of the treasury on satisfactory proof being produced to the comptroller of the quantity actually contained in such

tract or lot, at any time before the sale of such lands ; but no such overcharge shall be cancelled, nor shall such overpayments be refunded unless application shall be made to the comptroller therefor within six years after the assessment of such overcharge.

Laws 1855, chap. 427, sec. 30.
3 Ed. Rev. Stat., 362,

SECTION XVIII.

OVERCHARGES TO BE CHARGED TO COUNTY—TOWN TO BE LIABLE THEREFOR.

If the whole amount of the tax, in case of the such overcharge, shall have been paid to the county treasurer, out of the treasury of this state, the comptroller shall charge the amount so refunded, with interest and charges thereon, to the treasurer of the county from which the tax was returned, and shall transmit an account thereof to him.

Laws 1855, chap. 427, sec. 31.
3 Ed. Rev. Stat., 362.

Such county treasurer shall deliver such account to the board of supervisors, at their then next meeting, who shall cause the amount thereof to be added to the proportion of the charges of the county to be raised in the town in which the tax was laid.

Id. sec. 32.

SECTION XIX.

LANDS ON WHICH STATE HAS A LIEN NOT TO BE SOLD AT TAX SALE.

Wherever a sale of lands for taxes shall be held by the comptroller, in pursuance of law, it shall be the duty of said comptroller to withdraw from such sale, all lots, pieces or parcels of land against which the people of the state of New York then hold a bond or lien for any part of the

purchase money thereof, or unpaid interest thereon, and to charge the amount of taxes, interest and expenses for which said lots, pieces or parcels were then liable to sale, as shown by the comptroller's book of sales, against each of such lots, pieces or parcels of land, in the books in his office in which the accounts of school fund and other bonded lands are kept, and to furnish the state treasurer with a statement of such amounts; and it shall be the duty of such state treasurer, on the receipt of such statement, to charge the amounts thereon against the respective lots, pieces or parcels of land on which such amounts are due, on the duplicate bond books which are kept in his office.

Laws 1875, chap. 572, sec. 1.

SECTION XX.

HOW LIEN DISCHARGED.

The holder of the certificate or the contract of purchase of any lot, piece or parcel of land, against which such charges or amounts have been entered, or any other person, may relieve such lands from liability in consequence of such charge, by paying to the state treasurer, at any time within two years after the last day of the sale from which such lands were withdrawn, the amount of such charges, with interest thereon at the rate of ten per cent. per annum.

Laws 1875, chap. 572, sec. 2.

SECTION XXI.

IN CASE PAYMENT SHALL NOT BE MADE.

In case the payment provided for in section two of this act, shall not be made, it shall be the duty of the comptroller, at the expiration of two years from the last day of the sale from which such lands were withdrawn, to state an account of the indebtedness against each of such lots, pieces or par-

cels of land on account of the amount charged against such premises in pursuance of the first section of this act, with the addition of thirty seven and one half per cent. thereto; and also the amount of principal and interest due on the bond or lien thereon to the commissioners of the land office, who may, thereupon, in case default shall be made in the payment of such bond, direct the comptroller to put the same in suit, or shall direct the state engineer and surveyor to again sell the lands against which such indebtedness remains; and, in case of such sale, all previous payments made on account of such land, shall be forfeited to the people of the state. But no conveyance of such premises shall be made to any purchaser until all the taxes and expenses aforesaid, charged against the same on such bond book, are paid into the state treasury.

Laws 1875, chap. 572, sec. 3.

SECTION XXII.

LAND BONDED TO THE STATE WHEN RE-SOLD.

Whenever the state engineer and surveyor shall re-sell any lot of land bonded to the state, he shall include in the amount for which such lot is offered for sale, the sums due at the time of such sale for principal and interest on the purchase moneys thereof, the amounts due on the books in the comptroller's office for taxes, and the interest and charges thereon, and the costs of such sale; and in case the total amount of such charges shall not be bid therefor, he shall purchase the same for the state, at the amount so due.

Laws 1875, chap. 572, sec. 4.

Amending sec. 60, art. 3, title 5, chap. 9, part 1.

5 Ed. Rev. Stat.

1 Ed. Rev. Stat., 205, sec. 47.

SECTION XXIII.

COMPTROLLER AUTHORIZED TO ADMIT UNPAID TAXES OF 1879.

The comptroller is hereby authorized and required to admit the unpaid taxes of the year eighteen hundred and seventy-nine, assessed upon lands in the several counties of this state to which the state acquired title from the tax sale of eighteen hundred and seventy-seven, in the same manner as if said lands had not become the property of the state; and the taxes so admitted shall be a lien upon said lands, and whenever any such lands shall be sold by the state, all taxes which may remain unpaid thereon on the books of the comptroller's office shall be paid by such purchaser before any patent shall be issued therefor.

All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Laws 1880, chap. 179.

SECTION XXIV.

COMPTROLLER EMPOWERED TO ISSUE BONDS IN ANTICIPATION OF
STATE TAX—PROCEEDS TO BE APPLIED TO THE CURRENT
EXPENSES OF THE GOVERNMENT—LIMIT OF GROSS AMOUNT
—APPROPRIATION.

SECTION 1. The state comptroller is hereby empowered, from time to time, as may be required, to issue bonds in anticipation of the state tax, authorized to be levied for the current expenses of the government, which bonds shall be made payable on or before the fifteenth day of May next, following date of issue, and draw interest at the lowest rate obtainable by the comptroller.

SEC. 2. The proceeds of the bonds issued in pursuance of section one of this act shall be applied in payment of the current expenses of the government, and to no other object, and so much as is necessary of the taxes in anticipation of which said bonds are issued, when received into the state

treasury, shall be applied exclusively to the payment of the principal and interest of said bonds.

SEC. 3. The gross amount of the bonds issued, as hereinbefore provided for, shall at no time exceed fifty per centum of the amount of taxes authorized to be levied and collected for the current expenses of government for the fiscal year in which said bonds are issued, and the comptroller shall include in his annual report to the legislature a detailed statement of all bonds so issued.

SEC. 4. The sum of two million dollars, or so much thereof as may be necessary, is hereby appropriated to carry out the provisions of this act.

Laws 1880, chap. 100.

SECTION XXV.

COMPTROLLER ANNUALLY TO DRAW WARRANT ON TREASURER FOR NATIONAL GUARD—AMOUNT.

SECTION 178. The comptroller shall annually draw his warrant upon the treasurer in favor of the county treasurer of each county for the sum of one thousand five hundred dollars for each regiment, and the sum of one thousand dollars for each battalion, and the sum of one thousand dollars for each separate mounted battery, and the sum of two hundred dollars for each separate battery not mounted, and the sum of six hundred dollars for each separate troop of cavalry, and the sum of five hundred dollars for each separate company of infantry, certified by the adjutant-general to be organized according to the provisions of this act, within the county; or, in case any regiment, battalion or separate troop, battery or company of infantry is organized in two or more counties, then the comptroller shall draw his warrant in favor of such county treasurer as the adjutant-general may in his certificate direct; which sums, and also those paid in like manner by the state, in lieu of furnishing uniforms and equipments, as provided in section

one hundred and thirteen of this act, together with the fines collected from delinquent officers, non-commissioned officers, musicians and privates, shall constitute the military fund of such regiment, battalion or separate troop, battery or company of infantry.

Laws 1880, chap. 547, sec. 14, amending Laws 1870, chap. 80, sec. 178.

CHAPTER XII.

DUTY OF COUNTY TREASURERS.

SECTION I. County Treasurer's Bond : New Bond may be Required ;
Forfeiture of Office ; Filing Bond.

II. Treasurer's Bond to the State ; To be Filed with Comptroller ; May Require Further Bond ; Office Vacated.

III. Pay of County Treasurers.

IV. When Court may Direct Action to be Brought on Treasurer's Bond.

V. County to be Protected against Costs ; Security ; Judgment not a Bar.

VI. When Counties to Pay State Taxes.

VII. Taxes upon Railroad Valuations to be paid to County Treasurer.

VIII. Investments by Treasurer in Other Bonds ; Bonds Purchased to be held as a Sinking Fund.

IX. Proceedings in Case of Neglect of Duty by County Treasurer ; Orders of County Judge, how Enforced.

X. County Treasurer to Execute Additional Official Bonds.

XI. County Treasurer to Report to Adjutant-General Amounts of Moneys on Account of National Guard.

XII. Treasurer to Pay Trustees Amount of Taxes Returned Unpaid.

XIII. County Treasurer to Report to Supervisors Unpaid Taxes of School Money.

XIV. County Treasurer to Designate Banks of Deposit ; Interest on Deposits ; Treasurer to Deposit Moneys ; Limitation to Depositories ; Proviso.

XV. Depository to Give Bond.

XVI. Treasurers not Relieved from Liability ; Moneys Only to be Drawn for County Claims ; Misappropriation ; Transferring Deposits.

XVII. Salary of County Treasurer ; Clerks and Assistants ; Account of Treasurer.

XVIII. Misconduct of Treasurer ; Removal of Treasurer ; Counties Exempt.

XIX. When Treasurer May Retain Compensation for Receiving and Paying Money belonging to the State.

- XX. Penalty for Neglect to Deliver Money, Books and Papers to Successor; Penalty for Neglect to Pay Over Money on Order of the Court.
- XXI. Return of Tax for Want of Goods and Chattles to Satisfy.
- XXII. Fines and Penalties Imposed by Court Martial to be Paid Into County Treasurer.
- XXIII. Accounts; With Supervisors; Books and Papers to be Delivered and Moneys Paid to Successor.

SECTION I.

COUNTY TREASURER'S BOND—NEW BOND MAY BE REQUIRED —FORFEITURE OF OFFICE—FILING BOND—DUTIES.

Every person appointed or elected to the office of county treasurer, before he enters upon the duties of his office, shall give a bond to the supervisors of the county, with three or more sufficient sureties, to be approved by the board of supervisors, and in such sum as they shall direct, conditioned that such person shall faithfully execute the duties of his office, and shall pay over, according to law, all moneys which shall have come, or which shall thereafter come, to his hands, as treasurer, and render a just and true account thereof to the board of supervisors when thereunto required.

Whenever in the opinion of said board, or a majority of them, the moneys intrusted to such person as treasurer shall be deemed unsafe, or the surety insufficient, such board may require from said treasurer a new and further bond, with like conditions as aforesaid, and in such penalty and with such surety as such board shall deem requisite and proper; and in case said county treasurer shall fail to renew said bond, as required, within twenty days after he shall be notified by said board of such requirement, such omission shall work a forfeiture of his office, and the same shall become vacant.

Laws 1866, chap. 696, as amended by Laws 1874, chap. 502.

1 Ed. Rev. Stat., part 1, chap. 12, art. 2, sec. 18, p. 342.

Such bond to be filed in county clerk's office with approbation of board of supervisors indorsed thereon.

1 Ed. Rev. Stat., sec. 19, p. 342.

It shall be the duty of the county treasurer to receive all moneys belonging to the county, from whatever source they may be derived; and all moneys belonging to the state, which by law are directed to be paid to him; and to pay and apply such moneys in the manner required by law.

Id., sec. 20, p. 342.

SECTION II.

TREASURER'S BOND TO THE STATE—TO BE FILED WITH COMPTROLLER—MAY REQUIRE FURTHER BOND—OFFICE VACATED.

Every person appointed or elected to the office of county treasurer, within twenty days from the time he shall receive notice of his election or appointment, and before he enters upon the duties of office, shall, in addition to the bond hereinbefore mentioned, to be given to the supervisors of the county, give a bond to the people of the state of New York, with two or more sureties, to be approved by the comptroller in such penalty as the comptroller shall direct, conditioned that such person shall faithfully execute the duties of his office, and shall pay over to the state treasury, according to law, all moneys belonging to the state which shall have come, or which shall thereafter come, into his hands as county treasurer, and render a just and true account thereof to the comptroller of the state, which bond shall be filed with the comptroller.

At any time when, in the opinion of the comptroller, the moneys intrusted to such person as treasurer shall be deemed unsafe, or the surety insufficient, the comptroller may require a new and further bond, with like conditions as the first, and in such penalty and with such sureties as the comp-

troller may deem requisite and proper. Should default be made in the giving and filing of the bond to the people of this state, as herein provided for, within the time limited herein, or should the said county treasurer neglect to renew his bond, as last hereinbefore provided for, the comptroller shall cause a written notice to be served on the person so in default, requiring him to furnish such bond or such renewal, as the case may be, within ten days from the day of service of such notice, whereupon, if such treasurer shall still be in default, he shall be deemed to have vacated his office, and the governor shall appoint a proper person to fill such vacancy.

1 Ed. Rev. Stat., p. 342, sec. 18.

SECTION III.

PAY OF COUNTY TREASURERS.

The several county treasurers of this state shall hereafter receive for their services, instead of the fees now allowed by law, such compensation as shall be fixed by the respective boards of supervisors of their respective counties, not exceeding the half of one per cent. for receiving and the half of one per cent. for disbursing all moneys belonging to their said counties respectively. In addition to such compensation so fixed as aforesaid, they shall be entitled to retain a commission of one per centum on every dollar belonging to the state which they shall receive and pay over to wit: one half of one per centum for receiving, and one half of one per centum for disbursing, but in no case to exceed the sum of five hundred dollars.

This act shall not apply to the counties of New York, Kings, Albany, Otsego, Onondaga, Erie and Westchester.

Laws 1871, vol. 1. p. 227, chap. 110.

People v. Devlin, 33 N. Y., 269.

Supervisors of Otsego v. Hendryx, 58 Barb., 279.

SECTION IV.

WHEN COURT MAY DIRECT ACTION TO BE BROUGHT ON TREASURER'S BOND.

Whenever any county treasurer shall, after service on him personally, or by leaving at his office in his absence, with some person having charge thereof, or if such service cannot be made, by leaving with some person of suitable age and discretion at his place of residence, or at his last place of residence in the county, if he has departed therefrom, of a certified copy of an order of the court, directing the payment or delivery of any money or securities held by him pursuant to order of the court, to any person or persons, shall fail or neglect so to do, the court may, by order, direct that an action be brought upon the official bond of such treasurer, against him and his sureties, to recover the amount of the money or securities so directed to be paid or delivered for the benefit of the person or persons in whose behalf the direction shall have been by such order given, and whose name or names appear therein; and therefore such action may be brought for such purpose.

Laws 1874, chap. 524, sec. 1.

SECTION V.

COUNTY TO BE PROTECTED AGAINST COSTS—SECURITY—JUDGMENT NOT A BAR.

The person or persons for whose benefit any action provided by the first section of this act may be brought shall protect the county from liability for costs and expenses thereof, and will be entitled to any costs recovered against the defendants therein; and in the order directing the bringing of any such action, the court may direct that security be given in such form, and approved in such manner as the court may thereby direct, to indemnify they count against

such liability. Any judgment which may be recovered in any such action shall not be a bar to another action upon the bond mentioned in the first section of this act, to recover for any other or further default of the same county treasurer. And the provisions of this act shall not be construed to create or increase liability upon the bond of any treasurer.

Laws 1874, chap. 524, sec. 2.

SECTION VI.

WHEN COUNTIES TO PAY STATE TAXES.

And every county shall pay its quota of state taxes into the state treasury, the one half on or before the fifteenth day of April, and the other half on or before the first day of May in each and every year thereafter.

Laws 1873, chap. 760, p. 1156.

SECTION VII.

TAXES UPON RAILROAD VALUATIONS TO BE PAID TO COUNTY TREASURER.

All taxes, except school and road taxes, collected for the next thirty years, or so much thereof as may be necessary, in any town, village or city, on the assessed valuation of any railroad in said town, village or city, for which said town, village or city has issued or shall issue bonds to aid in the construction of said railroad, shall be paid over to the treasurer of the county in which said town, city or village lies. It shall be the duty of said treasurer, with the money arising from taxes levied and collected as aforesaid, which has heretofore been, or shall hereafter be paid to him (including the interest thereon), to purchase the bonds of said town, issued by said town, to aid in the construction of any railroad or railroads, when the same can be purchased at or below par; the bonds so purchased, to be immediately

cancelled by said treasurer and the county judge, and deposited with the board of supervisors.

Laws 1871, chap. 283, sec. 4.

SECTION VIII.

INVESTMENTS BY TREASURER IN OTHER BONDS—BONDS PURCHASED TO BE HELD AS A SINKING FUND.

In case said bonds so issued cannot be purchased at or below the value thereof, then it shall be the duty of said treasurer, and he is hereby directed, to invest said money so paid to him as above mentioned, with the accumulated interest thereon, in the bonds of this state, or of any city, county, town or village thereof issued pursuant to the laws of this state, or in bonds of the United States. The bonds so purchased, with the accumulated interest thereon, shall be held by said county treasurer as a sinking fund for the redemption and payment of the bonds, issued or to be issued by said town, village or city in aid of the construction of said railroad or railroads.

Laws 1871, chap. 283.

SECTION IX.

PROCEEDINGS IN CASE OF NEGLECT OF DUTY BY COUNTY TREASURER—ORDERS OF COUNTY JUDGE HOW ENFORCED.

In case any county treasurer shall unreasonably refuse or neglect to comply with the provisions of this act, any tax payer in any town, village or city theretofore having issued bonds in aid of the construction of any railroad or railroads, is hereby authorized to apply to the county judge, on petition, for an order compelling said treasurer to execute the provisions of this act. And it shall be the duty of said county judge, upon a proper case being made, to issue an order directing said county treasurer to execute the provisions of this act. All provisions of law now in force relating to the enforcement of the decrees or orders of the supreme court are

hereby declared to apply to and devolve upon said county judge in the enforcement of said order.

Laws 1871, chap. 283.

SECTION X.

COUNTY TREASURERS TO EXECUTE ADDITIONAL OFFICIAL BONDS.

The county treasurers of the several counties of this state, in which one or more towns are situated, which have issued bonds for railroad purposes, shall execute a bond, with two sufficient sureties to be approved by the county judge of the counties respectively, to the people of the State of New York, in such penal sum as may be prescribed by the board of supervisors of the respective counties, conditioned for the faithful performance of the duties devolving upon him, in pursuance of the provisions of this act.

Laws 1871, chap. 283.

SECTION XI.

COUNTY TREASURER TO REPORT TO ADJUTANT-GENERAL AMOUNTS OF MONEYS ON ACCOUNT OF NATIONAL GUARD.

Each county treasurer shall report, on the first day of March and September in every year, to the Adjutant-General, and also to the commandants of divisions and brigades whose districts are in part or in whole in his county, the amount of all moneys received and paid out by him on account of each regimental, battalion, or separate troop, battery, or company fund, and the balance then remaining in his hands and the number or designation of the regiment, battalion, or separate troop, battery, or company, for which the same is held in trust, stating distinctly in such report the amounts received and paid out by him on account of uniforms and equipments for each such organization. And the bond now required by law to be given by county treasurers for the faithful discharge of their duties shall be held to apply to any moneys that may come into their hands under the provisions of this act.

Laws 1878, chap. 275, sec. 68; amending Laws 1870, chap. 80, sec. 182.

SECTION XII.

TREASURER TO PAY TRUSTEES AMOUNT OF TAXES RETURNED
UNPAID.

Out of any moneys in the county treasury raised for contingent expenses the treasurer shall pay to the trustees the amount of the taxes so returned as unpaid, and if there are no moneys in the treasury applicable to such purpose, the board of supervisors, at the time of levying said unpaid taxes, as provided in the next section, shall pay to the trustees of the school district the amount thereof by voucher or draft on the county treasurer in the same manner as other county charges are paid.

Laws 1880, chap. 455, amending Laws 1864, chap. 555, sec. 77.

SECTION XIII.

COUNTY TREASURER TO REPORT TO SUPERVISORS UNPAID
TAXES OF SCHOOL MONEYS.

Such account, affidavit and certificate shall be laid by the county treasurer before the board of supervisors of the county who shall cause the amount of such unpaid taxes with seven per cent. of the amount in addition thereto, to be levied upon the lands of non-residents on which the same were imposed; and if imposed upon the lands of any incorporated company, then upon such company; and when collected, the same shall be returned to the county treasurer to reimburse the amount so advanced, with the expenses of collection; and if imposed upon the stock of a non-resident stockholder in a banking association organized under the laws of congress, then, the same, with seven per cent. of the amount in addition thereto, shall be a lien upon any dividends thereafter declared upon such stock, and upon notice by the board of supervisors to the president and directors of such bank, of such charge upon such stock, the president and directors shall thereafter withhold the amount

so stated from any future dividends upon such stock, and shall pay the same to the collector of the town duly authorized to receive the same.

Laws 1875, chap. 567, sec. 23, amending Laws 1864, chap. 555, sec. 78 title 7.

In case of removal on charges against a county treasurer, see chap. 133, Laws 1876.

SECTION XIV.

COUNTY TREASURER TO DESIGNATE BANKS OF DEPOSIT—INTEREST ON DEPOSITS—TREASURER TO DEPOSIT MONEYS—LIMITATION AS TO DEPOSITARIES—PROVISO.

It shall be the duty of the county treasurer, hereinafter elected or appointed, of each county in this state, except the city and county of New York, within twenty days after he shall have entered upon the duties of his office, to designate by instrument in writing, in duplicate, one copy whereof shall be filed in the office of the clerk of such county, and one in the office of the state treasurer, one or more good and solvent banks, bankers or banking associations in such county, or in case there shall be no such good and solvent bank, bankers or banking association in such county, then in an adjoining county within this state, for the deposit of all moneys received by such treasurer, and to agree with such bank or banks, banker or bankers, association or associations, upon a rate of interest per annum to be paid on the moneys so deposited, and the accrued interest thereon shall, as often as once in six months, be credited by such depositary or depositaries to the account of such county treasurer, for the use of said county; and such treasurer shall deposit with such depositary or depositaries at least once in each week, and in any county containing a city having more than ten thousand inhabitants, daily, all such moneys so received by him. But in no county having a city containing more than twenty thousand inhabitants shall any bank, banker or banking association,

be selected as such depositary which shall not have an unimpaired capital stock of at least one hundred thousand dollars. Provided however that nothing herein shall limit the power of any court or officer by whose direction any moneys shall be paid over to or received by such treasurer, to direct in relation to the custody or investment thereof, or the disposition to be made of the interest thereon; and no interest received from any moneys so deposited, which are not received for some public use, shall belong to such county.

Laws 1877, chap. 436, sec. 1.

SECTION XV.

DEPOSITARY TO GIVE BOND.

Each bank, banker or banking association so designated shall, for the benefit and security of the county, and before receiving any such deposit, give to the supervisors of such county a good and sufficient bond, with two or more sureties, to be approved by the county judge of the county in which such bank, banker or banking association shall be located, and the chairman of the board of supervisors of the county of which such treasurer is an officer, and by such treasurer. Such bond shall specify the amount which such treasurer shall be authorized to have on deposit at any one time with such depositary, and shall be in a penal sum of twice such amount, and shall be conditioned for the safe-keeping and payment on the order or warrant of such treasurer, or upon other lawful authority, of such deposits and of the agreed interest thereon, and for the payment of such bonds or coupons as by their terms are made payable at a bank or banks, and for the payment of which a deposit shall be made by such treasurer with such depositary. And it shall be the duty of the clerk of the board of supervisors to file such bond in the office of the clerk of such county.

Laws 1877, chap. 436, sec. 2.

SECTION XVI.

TREASURER NOT RELIEVED FROM LIABILITY—MONEYS ONLY TO
BE DRAWN FOR COUNTY CLAIMS—MISAPPROPRIATION—
TRANSFERRING DEPOSITS.

The designation of any such bank, bankers or banking association, and the deposit of moneys therewith by such treasurer, shall not release him or his sureties from any liability in relation to such moneys, or in any manner affect such liability; but any default by such depositary in relation to such moneys shall be deemed the default of such treasurer, and he and his sureties shall be liable therefor. But such treasurer and his sureties shall have the right to collect from such depositary or its sureties, any amount or amounts which such treasurer or his sureties, shall pay by reason of the default of such depositary.

Such county treasurer shall draw the moneys so deposited only for the payment of claims ordered to be paid by the board of supervisors or other lawful authority, or pursuant to the lawful direction of some court; and if he shall draw or appropriate any such moneys for any other purpose, it shall be deemed malfeasance in office, and cause for removal therefrom. But nothing herein contained shall prevent such county treasurer from depositing from time to time, such moneys, or some portion thereof, in any other bank or banks, association or associations, or with any other banker or bankers, authorized to receive the same in deposit under this act, or from transferring any such moneys from one depositary to another, which shall have duly qualified by giving security as herein provided.

Laws 1877, chap. 436, sec. 3 and 4.

SECTION XVII.

SALARY OF COUNTY TREASURER—CLERKS AND ASSISTANTS—
ACCOUNT OF TREASURER.

Every county treasurer hereafter elected or appointed shall receive as compensation for his services an annual salary, to be fixed by the board of supervisors. He shall not receive to his use any interest, fees or other compensation for his services, except in proceedings for the sale of lands for unpaid taxes as may be now provided for by law. It shall be the duty of said board to fix the salary of any treasurer hereafter elected at least six months before his election, and such salary shall not be increased nor diminished during his term of office; and no county treasurer shall purchase or be directly or indirectly interested in any purchase of any claim whatever against the county of which he is treasurer.

The board of supervisors of any county may authorize the employment by the treasurer, of such clerk or clerks and other assistants as may be deemed necessary by such board, the compensation to be determined by such board.

Every county treasurer shall keep an accurate account of all moneys received, deposited and paid out by him, and shall quarterly, and at such other times as the board of supervisors shall by resolution require, make a true statement thereof in writing, the correctness of which shall be verified by him, and file the same with the county clerk; and such statement shall be published as soon thereafter as may be, in the newspapers designated by said board for the publication of the session laws in said county; and shall also transmit by mail a copy of such statement to the comptroller and treasurer of this state.

SECTION XVIII.

MISCONDUCT OF TREASURER—REMOVAL OF TREASURER—COUNTIES EXCEPTED.

Every county treasurer who shall willfully misappropriate any of the moneys, funds or securities, which shall have been received by him as such treasurer, or who shall, in violation of law, draw out any of the moneys so deposited, or who shall be guilty of any other malfeasance or willful neglect of duty in his office, shall, upon conviction thereof, be punished by a fine not less than five hundred nor more than ten thousand dollars, or imprisonment in a state prison for not less than one year nor more than five years, or by both such fine and imprisonment, in the discretion of the court.

The governor may remove any county treasurer from office, whenever it shall appear that such treasurer has been guilty of any malfeasance or other misconduct or malversation in office, first giving to such officer a copy of the charges against him, or by leaving the same at his last place of residence, with some person of suitable age and discretion, and an opportunity of being heard in his defense. In case of any such removal or of any other vacancy in the office of county treasurer, the vacancy shall be supplied by the board of supervisors, and the person so appointed, shall hold the office until his successor shall have been elected at the first annual election occurring after such vacancy, and shall have duly qualified.

Nothing herein contained shall apply to the counties of Monroe and Seneca.

Laws 1877, chap. 436, sec. 8, 9 and 10.

Nothing herein contained shall apply to the counties of Sullivan, Putnam, Greene, Monroe, Onondaga, Columbia and Seneca.

Laws 1878, chap. 94.

Nothing herein contained shall apply to the counties of Sullivan, Putnam, Greene, Monroe, Onondaga, Columbia, Seneca, Essex, Delaware, Cortland, Queens, Chautauqua and Allegany.

Laws 1879, chap. 23 and chap. 159.

Nothing herein contained shall apply to the counties of Sullivan, Putnam, Greene, Monroe, Onondaga, Columbia, Seneca, Essex, Delaware, Cortland, Queens, Madison, Oswego, Rensselaer, Livingston and Erie.

Laws 1880, chap. 580.

SECTION XIX.

WHEN TREASURER MAY RETAIN COMPENSATION FOR RECEIVING AND PAYING MONEY BELONGING TO THE STATE.

Nothing in this act shall be construed as preventing the treasurers of the several counties of this state, in which the treasurer is a salaried officer, from retaining for the benefit of their said counties, respectively, the same compensation for receiving and paying the money belonging to the state every year, as that now allowed by law, where such treasurer is not a salaried officer, and the comptroller is hereby authorized to allow to the said treasurers, for the benefit of their respective counties, on state taxes hereafter received and paid over by them, where not already allowed, the compensation now allowed by law, where such treasurer is not a salaried officer.

Section X, of said act is hereby amended so as to read as follows. Nothing herein contained shall apply to the counties of Monroe and Seneca.

Laws 1880, chap. 233, amending chap. 436, Laws 1877.

SECTION XX.

PENALTY FOR NEGLECT TO DELIVER MONEY, BOOKS AND PAPERS
TO SUCCESSOR—PENALTY FOR NEGLECT TO PAY OVER MONEY
ON ORDER OF THE COURT.

If any such preceding county treasurer, or in case of his death, if his executors or administrators shall refuse or neglect to deliver such books, papers and moneys, upon oath, when lawfully demanded, every such person shall forfeit, for the use of the county, the sum of twelve hundred and fifty dollars, to be sued for and recovered by his successor in office, and whenever any preceding county treasurer, or his legal representatives, shall have in his or their hands any moneys which of right belong to such county, or any books, papers or vouchers belonging to said office, and shall refuse or neglect to deliver to his successor any such books papers or vouchers, or pay over such moneys, it shall be the duty of such successor to sue for and recover the possession of such books, papers and vouchers, and to sue for and collect said money, for the use of such county, and to that end an action may be brought by said county treasurer upon the official bond of such preceding county treasurer, against him and his sureties, to recover the amount of the moneys due said county.

Whenever any county treasurer shall, after service on him personally, or by leaving at his office, in his absence, with some person having charge thereof, or if such service cannot be made, by leaving with some person of suitable age and discretion at his place of residence, or at his last place of residence in the county, if he has departed therefrom, of a certified copy of an order of the court, directing the payment or delivery of any money or securities held by him pursuant to an order of the court, to any person or persons, shall fail or neglect so to do, or where any county treasurer has invested or loaned any moneys held by him pursuant to order of the court, to any person or persons on inadequate or worthless securities, and shall fail or neglect when

required so to do, to pay over the amount of the moneys so invested to the person or persons entitled thereto, the court may by order, direct that an action be brought upon the official bond of such treasurer, against him and his sureties, to recover the amount of the moneys or securities so directed to be paid or delivered, or of the moneys so invested on inadequate or worthless security, for the benefit of the person or persons in whose behalf the direction shall have been by such order given, and whose name or names appear therein, or their assigns, and thereupon such action may be brought for such purpose.

Laws 1879, chap. 447. Amending sec. 25, art. 2 of title 2, chap. 12 part 1.

1 Ed. Rev. Stat., 342.

SECTION XXI.

RETURN OF TAX FOR WANT OF GOODS AND CHATTELS TO SATISFY.

When the tax imposed by a board of supervisors, upon any resident taxpayer in the several counties, shall be returned by the collector of any town or ward as unpaid, for want of goods and chattels to satisfy the same, the treasurer of the county in which such taxes are so returned shall add interest to the same at the rate of eight per centum per annum, until the same is returned by said treasurer to the comptroller, which sum so added shall be a lien upon the property assessed, in the same manner and to the same extent as the tax levied by the said board of supervisors. *\$46ms 415*

This act shall not apply to any county having a special provision of statute on this subject.

Laws 1880, chap. 448.

SECTION XXII.

FINES AND PENALTIES IMPOSED BY COURT MARTIALS TO BE PAID
INTO COUNTY TREASURY.

All fines and penalties imposed by any court martial convened in pursuance of the preceding section shall be paid, by the officer collecting the same, into the treasury of the county within which the regiment, battalion, separate troop, battery or company is located, within thirty days after the collection thereof, and shall belong to the military fund of the regiment, battalion, separate troop, battery or company of which the persons paying the fines and penalties are members; and the treasurer of such county shall thereupon report the amount thereof, designating the organization to which it belongs, to the adjutant-general of the state.

Laws 1880, chap. 547, sec. 23, amending Laws 1870 chap. 80, sec. 204.

SECTION XXIII.

ACCOUNTS—WITH SUPERVISORS—BOOKS AND PAPERS TO BE DELIVERED, AND MONEYS PAID TO SUCCESSOR.

The county treasurer shall keep a just and true account of the receipts and expenditure of all moneys which shall come to his hands by virtue of the office, in a book or books to be kept for that purpose, which books shall be provided at the expense of the county,

1 Ed. Rev. Stat., p. 342, sec. 21.

At the annual meeting of the board of supervisors, or at such other time as they direct, the county treasurer shall exhibit to them, all his books and accounts, and all vouchers relating to same, to be audited and allowed.

1 Ed. Rev. Stat., p. 342, sec. 23.

Upon the death, resignation or removal from office of any county treasurer, all the books and papers belonging to

his office, and all moneys in his hands by virtue of his office, shall be delivered to his successor in office, upon the oath of the preceding county treasurer, or, in case of his death, upon the oath of his executor or administrators.

1 Ed. Rev. Stat., p. 342, sec. 24.

CHAPTER XIII.

OF SALES OF LAND FOR UNPAID TAXES, AND THE CONVEYANCE AND REDEMPTION OF LAND SOLD.

SECTION I. Land when to be Sold.

- II. List of Lands and Notices of Sale.
- III. Lists, how Transmitted; Pay of Agents.
- IV. Expenses, how Paid.
- V. Copies in Treasurer's Office.
- VI. Treasurer's Expenses; Notice by Town Clerk.
- VII. General Notice; Affidavit of Publication.
- VIII. Maps of Land sold; Sale.
- IX. Comptroller, &c., not to be Interested in Tax Sales; Misdemeanor.
- X. Bids, how made.
- XI. Certificate of Purchase; Cancellation of Sale.
- XII. Comptroller may set aside Cancellation of Sale.
- XIII. New Certificate; Change of Purchaser.
- XIV. Time for Redemption; Undivided Parts.
- XV. Undivided Share of Undivided Part; Specific Part.
- XVI. Specific Part of Undivided Tract; Proportional Parts how Paid.
- XVII. Partial Redemption; Taxes on Land Conjointly sold.
- XVIII. Suits for Proportion of Value.
- XIX. Lien of Judgment; Docket how made.
- XX. Notice of Unredeemed Lands.
- XXI. How Published; Deeds.
- XXII. Lost Certificate.
- XXIII. Conveyances how Executed.
- XXIV. Bids for State.
- XXV. Sale of Lands bid in by Comptroller.
- XXVI. Notice to Occupants.
- XXVII. Notice how Served; Redemption.
- XXVIII. Certificate; Affidavit of Service of Notice.
- XXIX. Comptroller's Certificate of Facts; Occupant may Redeem.
- XXX. Treasurer's Receipt; Mortgage Liens not Affected.
- XXXI. Notice to Mortgagee, when to be Given.
- XXXII. Mortgagee's Lien; Failure to Pay.
- XXXIII. "Mortgagee" Defined; Notice how Served.

- XXXIV. Rights of Mortgagee, filing Notice to Redeem; Payment to County Treasurer upon County Sales; Lien of Mortgagee on Redemption.
- XXXV. Invalid Sales; Error how Charged.
- XXXVI. Cancelling Sale and Refunding Money; Expenses of Sale.
- XXXVII. Moneys to be Paid into Treasury; Neglect of Duty.
- XXXVIII. Pay of County Treasurers.
- XXXIX. Payments how Audited.
- XL. Exceptions; Repeal.
- XLI. Supreme Court, When to Order Sale of Lands to Pay Taxes; May Extend Time for Redemption.
- XLII. Redemption by Agreement.
- XLIII. Proceedings in Case of Unknown Owners.
- XLIV. Presumptive Owners may be made Parties; Sales how Made.
- XLV. Sale, &c., of Lands for Taxes in Villages,

SECTION I.

LAND WHEN TO BE SOLD.

Whenever any tax charged on lands returned to the comptroller, and the interest thereon, shall remain unpaid for two years from the first day of May, following the year in which the same was assessed, the comptroller shall, as soon thereafter as he shall deem it for the best interests of the state, proceed to advertise and sell such lands in the manner hereinafter provided.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 33.
 Coleman v. Shattuck, 62 N. Y. R., 364.
 Jackson v. Morse, 18 Johnson's Rep., 441.

SECTION II.

LIST OF LANDS AND NOTICES OF SALE.

He shall make out a list or statement of the lands charged with such tax and interest and so liable to be sold, and shall cause so many copies thereof to be printed as shall be sufficient to furnish each county treasurer with at least five copies, and each town and city clerk with at least two

copies, and shall transmit to each county treasurer such number of said copies as shall be equal to five copies for such county treasurer, and two copies for each town and city clerk in his county. And the comptroller shall also make and cause to be printed and published in two public newspapers to be selected by him in each county, once in each week, for ten successive weeks prior to the commencement of the sale, a list or statement of all the lands in such county charged with such tax and interest. Such publication shall be in the body of each newspaper, and not in a supplement. If there shall not be two newspapers, known to the comptroller, published in any county, such list or statement shall be published as required above, in two newspapers which the comptroller shall believe to be the most generally circulated in such county. But no error in the printed description in such newspaper shall vitiate or in any manner affect the validity of such sale; and all expenses of printing such lists or statements shall be audited by the comptroller, and paid out of the treasury of this state, on receiving one copy of the newspaper containing the same, with an affidavit of the publication of such list or statement according to the provisions of this section, to be made by the printer, publisher or some other person to whom the fact of such publication shall be known.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 34.

3 Ed. R. S., 362.

Requisites of Comptroller's Notice of Sale, see *Becker v. Holdrige*, 47 How. P. R. 429.

SECTION III.

LISTS, HOW TRANSMITTED—PAY OF AGENTS.

The comptroller may employ agents or messengers to transmit to such of the county treasurers as he may think proper, the copies of such lists of land liable to be sold for taxes; and the agents or messengers so employed shall require from each county treasurer to whom they shall

deliver such copies, an acknowledgment, in writing, of the receipt thereof; which acknowledgments shall be delivered by such agents or messengers to the comptroller, at least eighteen weeks before the commencement of the sale of the lands mentioned in such list.

Law 1855, chap. 427, sec. 35.

3 Ed. Rev. Stat., 363.

The reasonable compensation of such agents or messengers shall be fixed by the comptroller, and paid out of the treasury; but the same shall not, in any case, exceed the amount of postage which would have been charged on the copies transmitted by such agents or messengers, if they had been transmitted by mail.

Id. Sec. 36.

SECTION IV.

EXPENSES HOW PAID.

The expenses incurred by the state in printing and transmitting any list of lands liable to be sold for taxes, and in publishing notices of sale and list of statements of such lands, shall be charged on the lands mentioned in such lists; and an equal part of such expense shall be estimated and apportioned by the comptroller and charged on each of the several tracts or parcels of such land.

Laws 1878, chap. 152, sec. 2, amending Laws 1855, chap. 427, sec. 37.

3 Ed. Rev. Stat., 363.

SECTION V.

COPIES IN TREASURER'S OFFICE.

Each county treasurer shall retain in his office five of the copies of the list or statement of lands to be sold, transmitted to him, and shall permit all persons at all reasonable hours to examine the same, and shall cause the remaining copies to be delivered to the town and city clerks.

Id. sec. 38.

SECTION VI.

TREASURER'S EXPENSES—NOTICE BY TOWN CLERK.

The expenses which may be incurred by the county treasurer, in the transmission of such lists, shall be audited and paid as contingent expenses of the county.

Laws 1855, chap. 427, sec. 38.

3 Ed. Rev. Stat., 363.

Every town clerk to whom such copies shall be delivered, shall give notice at the opening of every town meeting for the election of town officers, that lists of all lands advertised for sale for taxes by the comptroller, are deposited in his office, and that they may be there seen and examined, at all reasonable hours, free of expense.

Laws 1855, chap. 427, sec. 40.

3 Ed. Rev. Stat., 363.

SECTION VII.

GENERAL NOTICE—AFFIDAVIT OF PUBLICATION.

After transmitting such lists to the county treasurers, the comptroller shall cause to be published, once in each week, for twelve weeks successively in two newspapers in and for each county, to be selected by him in the same manner as is provided in section thirty-four of this act for selecting newspapers to publish the lists of lands liable to be sold, a general notice, stating that a list of all the lands liable to be sold for taxes has been forwarded to each of the county treasurers and town and city clerks in this state, and that so much of said lands as may be necessary to discharge the taxes, interest and charges which may be due thereon at the time of sale, will, on a day to be mentioned in such notice, and the succeeding days be sold at public auction at the capitol in the city of Albany.

Laws 1878, chap. 152, sec. 1, amending Laws 1855, chap. 427, sec. 1.

3 Ed. Rev. Stat., 364,

Every printer to whom such notice shall be transmitted for publication, shall, within twenty days after the last publication thereof, transmit to the comptroller an affidavit of due publication, made by some person to whom the fact of publication shall be known.

Laws 1855, chap. 427, sec. 42.
3 Ed. Rev. Stat., 364.

SECTION VIII.

MAPS OF LANDS SOLD—SALE.

Whenever the comptroller, preparatory to a sale of lands for taxes, shall deem it necessary, in order to test the correctness of the descriptions thereof, he may apply to the board of supervisors of any county, for maps of any tracts of land charged with taxes, and returned from such county. And the board of supervisors to whom such application shall be made, shall furnish such maps, at the expense of the county, if they can be procured, and if not, they shall then furnish such descriptions of the lands as they can obtain, with a statement of the quantity in each subdivision, if the same be divided.

Laws 1855, chap. 427, sec. 43.
3 Ed. Rev. Stat., 364.

On the day mentioned in the notices, the comptroller shall commence the sale of such lands, and shall continue the same from day to day, until so much of each parcel so assessed shall be sold, as will be sufficient to pay the taxes, interest and charges thereon.

Id., Sec. 44.

SECTION IX.

COMPTROLLER, ETC., NOT TO BE INTERESTED IN TAX SALES— MISDEMEANOR.

It shall be unlawful for the comptroller of this state, and for any person employed in the office of such comptroller,

to be interested directly or indirectly in any tax sale made by such comptroller, or in the title acquired by such sale, or in any money paid or to be paid for the redemption of any lands sold for taxes, or on the cancellation of any tax sale; and it shall be unlawful for any person to pay to the comptroller or to any employee in his office, and for the said comptroller or any employee in his office to receive, directly or indirectly, any compensation, reward or promise thereof, from any person or persons who are interested in any purchase or purchases of lands sold for taxes, for any service or services, performed or to be performed in regard to such sale, redemption, cancellation of such tax title. If any person offend against any provision of this section, he shall be deemed guilty of misdemeanor; and the sale by the comptroller of any lands in which such person shall be interested contrary to the provision of this section, is hereby declared to be void.

Laws 1862, chap. 285.
3 Ed. Rev. Stat., 379.

SECTION X.

BIDS, HOW PAID.

The purchasers at such sale shall pay the amount of their respective bids to the state treasurer, within forty-eight hours after the last day of the sale; and if any such purchaser shall refuse or neglect to pay the same within that time, the comptroller may state an account against him, and deliver it to the attorney-general, who shall be entitled to recover the same from the purchaser, by an action in the name of the people of this state; and for that purpose he shall forthwith cause a suit to be instituted therefor; or the comptroller may, in his discretion, re-sell the said lands upon which such bids so remaining unpaid were made as hereinafter provided.

Laws 1855, chap. 427, sec. 45.
3 Ed. Rev. Stat., 364.

SECTION XI.

CERTIFICATE OF PURCHASE—CANCELLATION OF SALE.

After such payment shall have been made, the comptroller shall give to the purchaser of any such lands a certificate in writing, describing the lands purchased, the sum paid, and the time when the purchaser will be entitled to a deed.

Laws of 1855, chap. 427, sec. 46.
3 Ed. Rev. Stat., 365.

At any time after the expiration of three months from the conclusion of any sale of lands for taxes, pursuant to this act, when any purchaser at such sale shall not have paid the amount of his bid, or the same shall not have been collected from him, it shall be lawful for the comptroller to cancel such sale, by which all the rights of the said purchaser, under such bid, shall be extinguished.

Id., sec. 47.

SECTION XII.

COMPTROLLER MAY SET ASIDE CANCELLATION OF SALE.

The comptroller of the State of New York shall have the power to set aside any cancellation of sale made by him under the provisions of chapter 427, of the laws of 1855, entitled, "an act in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such lands for unpaid taxes" in either of the following cases:

First.—Whenever such cancellation was procured by fraud or misrepresentations.

Second.—Whenever such cancellation was procured by the suppression of any material fact bearing upon the case.

Third.—Whenever the cancellation was made under a mistake of fact. But the comptroller shall in all cases specify the particular ground upon which said cancellation is set aside.

Laws 1873, chap. 120.

SECTION XIII.

NEW CERTIFICATE OF SALE—CHANGE OF PURCHASER.

Whenever the comptroller shall have cancelled any sale in the manner provided in section forth-seven of this act, he may issue a certificate of such sale to any person who will pay the amount for such certificate which would be payable therefor by the original purchaser in case the said sale had not been cancelled, or if such certificate cannot be sold, he may transfer the same to the people of the state; but in all cases where the people of the state becoming the purchasers by such transfer, the whole quantity of land liable to sale for the purchase money mentioned in such certificate shall be covered by such purchase the same as if no person had offered to bid therefor at the sale.

Laws 1878, chap. 152, sec. 1, amending Laws 1855, chap. 427, sec. 48.
3 Ed. Rev. Stat., 365.

The change of purchaser shall be noted in the sales book, and the time when made; and the certificate issued to such new purchaser shall confer the same right to him and his legal representatives, as he would have acquired had he been the successful bidder at the sale.

Laws 1855, chap. 427, sec. 49.
3 Ed. Rev. Stat., 365.

SECTION XIV.

TIME FOR REDEMPTION—UNDIVIDED PARTS.

The owner or occupant of any land sold for taxes, or any other person, may redeem the same, as hereinafter provided at any time within two years after the last day of such sale, by paying to the state treasurer, on the certificate of the comptroller, for the use of the purchaser, his heirs or assigns, the sum mentioned in his certificate, with interest at the rate of ten per cent. per annum, from the date of such certificate.

Laws 1855, chap. 427, sec. 50.
3 Ed. Rev. Stat., 365.

Any person claiming an undivided part of any tract, lot or piece of land sold for taxes, may redeem the same on paying as aforesaid, such proportion of the purchase money and interest as he shall claim of the land sold.

Id. sec. 51.

SECTION XV.

UNDIVIDED SHARE OF UNDIVIDED PART—SPECIFIC PART.

Any person claiming an undivided share in any tract or lot of land out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying as aforesaid, such proportion of the purchase money and interest as he shall claim of the lands sold.

Laws 1855, chap. 427, sec. 52.
3 Ed. Rev. Stat., 365.

Any person claiming a specific part of any tract, lot or piece of land sold for taxes, may redeem his specific part by paying as aforesaid, such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity of acres sold.

Id. sec. 53.

SECTION XVI.

SPECIFIC PART OF UNDIVIDED TRACT; PROPORTIONAL PARTS HOW PAID.

Any person claiming a specific part of any tract or lot of land out of which an undivided part shall have been sold for taxes, charged on the whole tract or lot, may redeem his specific part by paying as aforesaid, such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity taxed.

Laws 1855, chap. 427, sec. 54.
3 Ed. Rev. Stat., 365.

Any person claiming a specific part of any tract or lot of land out of which a specific part belonging to some other person, shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying as aforesaid, at any time before the expiration of the time allowed for the redemption, such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity taxed; and such payment shall operate as redemption of a proportionate part, according to the amount paid, of the land sold.

Id. sec. .55

SECTION XVII.

PARTIAL REDEMPTION—TAXES ON LAND CONJOINTLY SOLD

In every case of a partial redemption, pursuant to either of the last five sections, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption; and the comptroller shall convey accordingly.

Laws 1855, chap. 427, sec. 56.
3 Ed. Rev. Stat., 366.

Whenever the lands of any one person shall be sold for taxes assessed conjointly on the lands of such person and the lands of another person, and such other person shall not pay his due proportion under section fifty-two of this act, the person whose lands shall be sold may redeem the same on paying, as aforesaid, the purchase money and interest; and he shall be entitled to recover from such other person whose lands were assessed with his, a just proportion of the redemption moneys so paid, with lawful interest from the time of such redemption; but no suit shall be brought for the recovery of such proportion, until after the expiration of the time allowed for such redemption.

Laws 1855, chap. 427, sec. 57.
3 Ed. Rev. Stat., 366.

SECTION XVIII.

SUITS FOR PROPORTION OF VALUE.

If such owner shall not redeem the land sold, and the same shall be conveyed by the comptroller, such owner may recover from some other person the same proportion of the value of the land sold and conveyed, that he ought to have paid of the tax, interest and charges for which the land shall have been sold. In all actions under this or the last preceding section, the certificate of the state treasurer, countersigned by the comptroller, duly stating the facts in relation to such redemption or sale and conveyance, shall be presumptive evidence of such payment, and of all facts therein stated.

Id., sec. 58.

SECTION XIX.

LIEN OF JUDGMENT—DOCKET HOW MADE.

Every judgment obtained under either of the last two sections, shall have priority, as against the lands of the defendant therein, on which the tax was assessed, and for which such proportional part ought to have been paid, to all mortgages executed, and all judgments recovered, since the twenty third day of April, 1823.

Laws 1855, chap. 427, sec. 59.
3 Ed. Rev. Stat., 376.

But such judgment shall not be entitled to such priority, unless at the time of docketing the same the plaintiff cause an entry to be made by the clerk in the docket thereof, specifying that such judgment has priority, as a lien on certain lands, over mortgages and other judgments pursuant to the laws regulating the collection of taxes, which entry shall be a part of such docket.

Id., 60.

SECTION XX.

NOTICE OF UNREDEEMED LANDS.

The comptroller shall at least six months before the expiration of the two years allowed for redemption, prepare a notice for each county, in which there shall then appear to be any lands sold for taxes and unredeemed, specifying particularly every parcel remaining unredeemed, and the amount necessary to redeem the same, calculated to the last day on which such redemption can be made, and stating that unless such lands are redeemed by a certain day, they will be conveyed to the purchaser; and he shall cause such notice to be published once in each week, for at least six weeks successively, in the newspapers designated by the boards of supervisors of such counties respectively to publish the session laws: such publication to be in the body of the newspaper, and not in a supplement; and the said six weeks' publication to be completed at least eighteen weeks before the expiration of the two years allowed for the redemption. The boards of supervisors of the respective counties shall audit and pay the expenses of such publication.

Laws 1855, chap. 427, sec. 61.

3 Ed. Rev. Stat., 367.

Westbrook v. Wiley, 47 N. Y. Rep., 457.

Bunner v. Eastman, 5 Barb., 639.

SECTION XXI.

HOW PUBLISHED—DEEDS.

If no newspapers shall have been designated to print the laws in any county in which such lands are situated, such notices, and lists or statements, shall be transmitted and published as above provided, in two newspapers of such county, to be selected by the comptroller; and if there shall not be two newspapers published in such county, then in the two newspapers which the comptroller shall believe to be most generally circulated in such county.

Laws 1855, chap. 427, sec. 62.

3 Ed. Rev. Stat., 367.

If no person shall redeem such lands within such two years, the comptroller shall, at the expiration thereof, execute to the purchaser, his heirs or assigns, in the name of the people of this state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple; subject, however, to all the claims which the people of this state may have thereon for taxes, or other liens or incumbrances.

Id. sec. 63.

Ritter v. Worth, 58 N. Y., 627.

Bunner v. Eastman 50 Barb., 639.

Haul v. Ballou, 12 N. Y., 541.

SECTION XXII.

LOST CERTIFICATE.

Whenever any certificate, given by the comptroller for lands sold for taxes, shall be lost, or wrongfully withheld by any person from the owner thereof, the comptroller may receive evidence of such loss or wrongful detention, and on satisfactory proof of the fact, may execute and deliver a deed to such person, as may appear to him to be the rightful owner of the land described in the certificate.

Id. sec. 64.

SECTION XXIII.

CONVEYANCES, HOW EXECUTED.

Such conveyance shall be executed by the comptroller, under his hand and seal, and the execution thereof shall be witnessed by the deputy-comptroller, surveyor-general or treasurer, and all conveyances hereafter executed by the comptroller, of lands sold by him for taxes, shall be presumptive evidence that the sale, and all proceedings prior thereto, from and including the assessment of the land, and all notices required by law to be given previous to the expiration of the two years

allowed to redeem, were regular, according to the provisions of this act, and all laws directing or requiring the same, or in any manner relating thereto. But when the person or persons claiming title under such conveyance or the grantees or assignees of such persons shall be in possession of the land described therein, either by himself or themselves, or his or their grantees, assignees, agents, tenants or servants, then such conveyance shall be presumptive evidence of the facts above stated, whatever may be the date of such conveyance.

Laws 1855, chap. 427, sec. 65, as amended by Laws 1860, chap. 209.
3 Ed. Rev. Stat., 367.

SECTION XXIV.

BIDS FOR STATE.

It shall be the duty of the comptroller to bid in for the state, at any sale of land for taxes, every lot of land by him put up for which no person shall offer to bid; and certificates of such sale shall be made by the comptroller, which shall describe the lands purchased, and specify the time when the people of this state will be entitled to a deed. Such purchases shall be subject to the same right of redemption as purchases by individuals; and if the lands sold shall not be redeemed, the comptroller shall execute a release therefor, to the people of this state, or their assignees, which shall have the same effect, and become absolute in the same time, and on the performance of the like conditions, as in the case of sales and conveyances to individuals.

Laws 1855, chap. 427, sec. 66.
3 Ed. Rev. Stat., 368.

SECTION XXV.

SALE OF LANDS BID IN BY COMPTROLLER.

At any time before the expiration of the two years allowed to redeem, the comptroller may sell and assign all

the interest of the people of this state, in any or all such certificates as mentioned in the last preceding section, either at public or private sale, as to him may seem most for the interest of the people, to any person who shall forthwith pay into the state treasury the amount of the purchase money charged him by the comptroller; and the assignee of such certificate, if the lands therein described shall not be redeemed, shall be entitled to a deed therefor, which shall have the same effect, and become absolute in the same time, and on the performance of the like conditions, as the case of conveyance under the last preceding section.

Laws 1855, chap. 427, sec. 67.

3 Ed. Rev. Stat., 368.

SECTION XXVI.

NOTICE TO OCCUPANTS.

Whenever any lot or separate tract of land sold for taxes by the comptroller, and conveyed as hereinbefore provided, shall at the time of the expiration of the two years given for the redemption thereof, or any part thereof, be in the actual occupancy of any person, the grantee to whom the same shall have been conveyed, or the person claiming under him, shall serve a written notice on the person occupying such land, within two years from the expiration of said time to redeem; stating in substance, the sale and conveyance, the person to whom made, and the amount of the consideration money mentioned in the conveyance, with the addition of thirty-seven and a half per cent. on such amount, and further addition of the sum paid for the deed; and stating also, that unless such consideration money and the said thirty-seven and a half per cent., together with the sum paid for the deed, shall be paid into the treasury for the benefit of such grantee, within six months after the time of filing in the comptroller's office of the evidence of the service of the said notice, that the said conveyance will become absolute, and the occupant and all others interested

in the land, be forever barred from all right or title thereto. And no conveyance made in pursuance of this section shall be recorded, until the expiration of such notice, and the evidence of the service of such notice shall be recorded with such conveyance.

Laws 1855, chap. 427, sec. 68.

3 Ed. Rev. Stat., 368.

See Form No. 16.

Smith v. Sanger, 4 N. Y., 377.

SECTION XXVII.

NOTICE, HOW SERVED—REDEMPTION.

Such notice may be served personally, or by leaving the same at the dwelling-house of the occupant, with any person of suitable age and discretion, belonging to his family.

Id., sec. 69.

The occupant, or any other person, may, at any time within the six months mentioned in such notice, redeem the said land, by paying into the treasury, such consideration money, with the addition of thirty-seven and a half per cent. thereon, and the amount that shall have been paid for the deed; and every such redemption shall be as effectual as if made before the expiration of the two years allowed to redeem the land sold.

Id., sec. 70.

SECTION XXVIII.

CERTIFICATE—AFFIDAVIT OF SERVICE OF NOTICE.

Upon such redemption, as provided for in the last preceding section, the comptroller shall give to the person redeeming, a certificate under his hand and seal, stating the payment, the year in which the sale was made, and showing particularly what land such payment is intended to redeem;

and such certificate shall be evidence of such redemption and may be recorded by the clerk of the county in the book for the recording of deeds.

Laws, 1855, chap. 427, sec. 71.

3 Ed. Rev. Stat., 369.

See form No. 17.

In every case of actual occupancy, the grantee, or the person claiming under him, in order to complete his title to the land conveyed shall, within one month after the service of such notice, file with the comptroller a copy of the notice served, together with the affidavit of some person who shall be certified as credible, by the officer before whom such affidavit shall be taken, that such notice as is above required, was duly served, specifying the mode of service.

Id. sec. 72.

SECTION XXIX.

COMPTROLLER'S CERTIFICATE OF FACTS—OCCUPANT MAY REDEEM.

If the comptroller shall be satisfied by such copy and affidavit that the proper notice has been duly served, and if the moneys required to be paid for the redemption of such land shall not have been paid, as hereinbefore provided, he shall, under his hand and seal, certify such facts, and the conveyance before made shall thereupon become absolute; and the occupant, and all others interested in said lands shall be forever barred of all right and title thereto.

Id. sec. 73.

Comstock v. Beardsley, 15 Wendell, 348.

Bush v. Davidson, 16 Wendell, 550.

The occupant of any such lot, or any other person may at any time before the service of said notice by the purchaser, or the person claiming under him, redeem any lands so occupied, by filing in the office of the comptroller satisfactory evidence of the occupancy required, and by paying to him

the consideration money for which the lands to be redeemed were sold, and thirty-seven and a half per cent. thereon together with the sum paid for the deed if any.

Id. sec. 74.

SECTION XXX.

TREASURER'S RECEIPT—MORTGAGE LIENS NOT AFFECTED.

Upon any redemption being made, as permitted in the last preceding section, the receipt of the treasurer to whom the payment is made, accompanied by the comptroller's certificate, as required by section sixty-eight of this act, and further stating, that such redemption was made without notice, shall be presumptive evidence that such land has been correctly redeemed.

Laws 1855, chap. 427, sec. 75.

3 Ed. Rev. Stat., 370.

No sale of real estate hereafter made for the non-payment of any tax or assessment, shall destroy, or in any manner effect the lien of any mortgage thereon, duly recorded or registered at the time of such sale, except as hereinafter provided.

Id. sec. 76.

SECTION XXXI.

NOTICE TO MORTGAGEE WHEN TO BE GIVEN.

It shall be the duty of the purchaser at such sale to give to the mortgagee a written notice of such sale, requiring him to pay the amount of the purchase money, with interest, at the rate allowed by law thereon, within six months after the giving of such notice. Such notice may be given at any time after the expiration of two years from the last day of such sale.

Laws 1855, chap. 427, sec. 77.

3 Ed. Rev. Stat., 370, as amended by Laws 1870, chap. 280, sec. 2.

7 Ed. Rev. Stat., 680.

SECTION XXXII.

MORTGAGEE'S LIEN—FAILURE TO PAY.

If such payment shall be made, the sale shall be of no further effect, and the mortgagee shall have a lien on the premises for the amount paid with the interest which may thereafter accrue thereon, at the rate of seven per cent. per annum, in like manner as if the same had be included in his mortgage.

Laws 1855, chap. 427, sec. 78.

In case the mortgagee shall fail to make such payment within the time so limited, he shall not be entitled to the benefit of section seventy-six of this act.

Id. sec. 79.

SECTION XXXIII.

“MORTGAGEE” DEFINED—NOTICES, HOW SERVED.

The term “mortgagee,” as used in this act, shall be construed to include assignees whose assignment shall be duly recorded, and personal representatives; and the term “purchaser,” shall be construed to include assignees, and real or personal representatives, as the case may be.

Laws 1855, chap. 427, sec. 80.

3 Ed. Rev. Stat., 370.

The notice required by section seventy-seven of this act, may be given either personally or in the manner required by law, in respect to notices of non-acceptance or non-payment of notes or bills of exchange, and a notarial certificate thereof shall be presumptive evidence of the fact; such certificates may be recorded in the county in which the mortgage was recorded, in the same manner and with the same effect as is by law prescribed in respect to deeds or other evidences of title of real estate. A copy of such notice served, together with the affidavit of some person, who shall be certified as credible by the officer

before whom such affidavit shall be taken, that such notice was duly served, specifying the mode of service, shall be filed in the office of the comptroller within one month after such service.

Laws 1855, chap. 427, sec. 81.

3 Ed. Rev. Stat., 370, as amended by Laws 1870, chap. 280, sec. 3.

7 Ed. Rev. Stat., 680.

SECTION XXXIV.

RIGHTS OF MORTGAGEE FILING NOTICE TO REDEEM—PAYMENT TO STATE TREASURER UPON STATE TAX SALES—PAYMENT TO COUNTY TREASURER UPON COUNTY SALES—LIEN OF MORTGAGEE ON REDEMPTION.

A mortgagee whose mortgage is duly recorded, or the assignee of any mortgage whose assignment is duly recorded, and the personal representatives of such mortgagee or assignee, who shall have filed with the comptroller, as required by law, a notice and description of his mortgage, may, at any time after the sale of all or any part of the mortgaged premises for unpaid taxes, and before the expiration of six months from the giving of the notice required by section 77, of chapter 427 of the laws of 1855, entitled "an act in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such lands for unpaid taxes," may redeem the said premises so sold, or any part thereof, from the said sale. If the said sale shall have been made by the comptroller, such redemption shall be made by paying to the state treasurer, upon the certificate of the comptroller, for the use of the purchaser, his heirs or assigns, the sum mentioned in his certificate, with interest, at the rate allowed by law in the case of redemption by occupants, from the date of such certificate; and if the said sale shall have been made by the county treasurer, or other county officer, the redemption shall be made by paying to the county treasurer the amount for which said lands were sold, with interest at the same

rate from the day of sale. The mortgagee or assignee of a mortgage or other person redeeming lands sold for unpaid taxes, as authorized by this section, shall have a lien on the premises so redeemed for the amount paid, with interest thereon from the time of such payment, at and after the rate of seven per centum per annum, in like manner as if the same had been included in the mortgage.

Laws 1870, chap. 280, sec. 1.
7 Ed. Rev. Stat., 679.

SECTION. XXXV.

INVALID SALES—ERROR HOW CHARGED.

Whenever the comptroller shall discover prior to the conveyance of any lands sold for taxes, that the sale was for any cause whatever invalid or ineffectual to give title to the lands sold, the lands so improperly sold shall not be conveyed, but the comptroller shall cancel the sale, and forthwith cause the purchase money and interest thereon to be refunded out of the state treasury to the purchaser, his representatives or assigns.

Laws 1855 chap. 427, sec. 83.
3 Ed. Rev. Stat., 370.

If the error originated with the county or town officers, the sum so paid shall be a charge against the county from which the tax was returned; and the board of supervisors shall cause the same to be assessed, levied, collected, and paid to the treasurer of this state.

Id. sec. 84.

SECTION XXXVI.

CANCELLING SALE AND REFUNDING MONEY—EXPENSES OF SALE.

If the discovery that the sale was invalid shall not be made until after the conveyance shall have been executed for the lands sold, it shall be the duty of the comptroller,

on receiving evidence thereof, to cancel the sale, to refund out of the state treasury to the purchaser, his representative or assigns, the purchase money, and interest thereon, and to recharge the county from which the tax was returned, with the amount of purchase money, and interest at the rate of seven per cent. from the time of the sale, and such county shall cause the same to be levied and paid, as provided in the last preceding section.

Laws 1855, chap. 427, sec. 85.

3 Ed Rev. Stat., 270.

The expenses attending the sales for taxes made under this act, including a due proportion of the expenses of printing and publishing lists and notices and transmitting copies thereof, not hereinbefore provided for, shall be a charge on the lands out of which the sales are made, and an equal part of such expense shall be estimated by the comptroller, and added to the taxes, interest and other charges on each parcel of land out of which a sale may be made.

Laws 1878, chap. 152, sec. 1, amending Laws 1855, chap. 427, sec. 86.
3 Ed Rev. Stat., 370.

Where sales made by comptroller, see *Becker v. Howard*, 66 N. Y., 5; *Coleman v. Shattuck*, 62 N. Y., 348; *Thompson v. Burhans*, 61 N. Y., 52; *Becker v. Holdridge*, 47 Howard, 429; *Ritter v. Worth*, 58 N. Y., 627; *Bank of Utica v. Mersereau*, 3 Barb., chap. 528: 577; *Westbrook v. Wiley*, 47 N. Y., 457; *Smith v. Sanger*, 4 N. Y., 577; *Bunner v. Eastman*, 50 Barbour, 639.

SECTION XXXVII

MONEYS TO BE PAID INTO TREASURY—NEGLECT OF DUTY.

The moneys received upon every such sale for taxes and interest, and also for the expenses of sale, shall be paid into the state treasury, and the accounts of persons entitled to any portion of the moneys so received for such expenses, shall be audited by the comptroller, and paid out of the state treasury.

Laws of 1855, chap. 427, sec. 87;

3 Ed. Rev. Stat., 371.

If any of the officers concerned in the execution of this act, shall willfully neglect or refuse to perform the duties assigned to them, such officer shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, in the discretion of the court.

Id., sec. 88.

SECTION XXXVIII.

PAY OF COUNTY TREASURERS.

The county treasurers of the several counties of this state, shall not, after the the thirty-first of May next, receive any moneys in payment of the taxes of 1852 and 1853, but they shall forthwith transmit to the state treasurer all money received by them in payment of such taxes, and the interest thereon up to that time, and shall at the same time furnish the comptroller with a full account of the same, exhibiting the lots, tracts, pieces, or parcels of land, particularly describing each as described in the books of his office, upon which such taxes were paid; the amount paid upon each, and the year for which such tax was paid; and if any part of such money shall have been paid on parts of lots or tracts, upon certificates made by the comptroller, the description of such part shall be the same as contained in such certificate.

Laws 1855, chap. 427, sec. 90;
3 Ed. Rev. Stat., 371.

SECTION XXXIX.

PAYMENTS HOW AUDITED.

The comptroller shall, upon the receipt of such account, cause all payments therein to be duly credited to the several tracts, pieces or lots of lands so paid, on the books of his office, as specified by section 39 of chapter 298 of the laws of 1850; and the comptroller shall, on and after the first

day of June next, be invested with all the powers and duties relating to the collection of said taxes of 1852 and 1853, and the sale of lands for non-payment of the same, as are conferred by this act in relation to unpaid taxes hereafter to be returned to and admitted to the comptroller.

Id. sec. 90.

SECTION XL.

EXCEPTIONS—REPEAL.

The provisions of this act (except sections two, three, eight, twelve, thirteen and fourteen,) shall not in any manner affect or apply to the city and county of New York, the city of Albany, the city of Brooklyn, in the county of Kings, or the village of Williamsburgh, in said county of Kings; and in said sections the words "county treasurer" shall be construed to include the chamberlain of the city and county of New York.

Laws 1855, chap. 427, sec. 91.

3 Ed. Rev. Stat., 371.

The act entitled "An act in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such lands in the counties where they are assessed," passed April tenth, one thousand eight hundred and fifty, and the act entitled "An act in relation to the publication of notices previous to the conveyance of lands sold for taxes," passed April sixth, one thousand eight hundred and fifty, and all laws inconsistent with this act, are repealed; but the repeal or anything contained (except section thirty), in relation to the cancellation of overcharged taxes, and sections eighty-nine and ninety, in relation to the taxes of the years one thousand eight hundred and fifty-two and one thousand eight hundred and fifty-three shall not in any manner affect any tax levied or assessed in either of the years one thousand eight hundred and forty-nine one thousand eight hundred and fifty and one thousand eight hundred and fifty-one, nor any proceeding for the collection thereof, by

sale of the land taxed or otherwise ; nor the rights of any person which have accrued or may accrue by reason of any such sale or proceeding, nor the powers of county treasurers in relation to the collection of the taxes of eighteen hundred and fifty-two and eighteen hundred and fifty-three, except as provided by sections eighty-nine and ninety, of this act above mentioned ; and all taxes heretofore levied or assessed, which have been or shall be hereafter rejected by the comptroller, and shall be hereafter returned to him, after having been duly relaid or reassessed, with corrected descriptions, shall, for the purpose of this act, be deemed to have been levied and assessed in, and to be the taxes of the year in which the tax was so relaid and the description perfected.

Id. sec. 92.

SECTION XLI.

SUPREME COURT WHEN TO ORDER SALE OF LANDS TO PAY TAXES—MAY EXTEND TIME FOR REDEMPTION.

In all cases where there are several persons interested at law or in equity in any real estate situate in this state, either as owning estates therein in possession, reversion or remainder, or as being presumptively entitled by virtue of any deed or will to such estates, on the death of any person or persons, in being, or upon the happening of any contingency in such deed or will specified, and such real estate, or any part thereof, has been sold, or shall hereafter be sold, or is, or shall become liable, in case of default, to be sold for any term of years to satisfy any tax or assessment imposed thereon, then, and in every such case, upon any action brought by any person so interested therein, for the purpose of compelling a just and equitable apportionment of such tax or assessment upon the several present, future and presumptive interests as aforesaid, in such real estate, and the payment thereof, of the redemption of the real estate so sold accordingly, the supreme court shall have power at any time, on the application of any party to such

action, to extend the time of redemption of any such real estate sold, or to be hereafter sold to satisfy any tax or assessment imposed thereon, to a period not exceeding six months from the entry of the final judgment to be given in such action, and to order a sale in fee simple absolute for such real estate, or any parts thereof, to pay such tax or assessment, or to redeem the same, or any part thereof, as aforesaid, and to direct the proceeds of such sale to be applied to the payment of such tax or assessment, or to the redemption of the real estate sold for such tax or assessment, after defraying the costs, charges and expenses of the action, and the proceedings connected therewith.

Laws 1855, chap. 327, sec. 1

3 Ed. Rev. Stat., 355, as amended Laws 1869, chap. 359.

7 Ed. Rev. Stat., 491.

SECTION XLII.

REDEMPTION BY AGREEMENT.

Like proceedings may be had to redeem by agreement with the purchasers of any real estate so sold or hereafter sold as aforesaid, after the time allowed by law for redemption shall have expired; but every such agreement shall be ratified and approved by the court, and the redemption thereof shall be evidenced by the deed of the purchaser, his heirs or assigns, granting the property to some party in the action expressed, to be made in the extinguishment of the tax or assessment title pursuant to this act.

Laws 1855, chap. 327, sec. 2.

3 Ed. Rev. Stat., 356.

SECTION XLIII.

PROCEEDINGS IN CASE OF UNKNOWN OWNERS.

If any person so interested as aforesaid, in said real estate is unknown, or if either of the known parties to such action, whether minors or of full age, reside out of the

state, or cannot on inquiry had be found therein, and that fact made to appear to the satisfaction of the court by affidavit, an order may be made by the court containing a sufficient description of the premises of which, or of part whereof a sale is sought, and requiring all parties interested therein to appear and answer the action by a day in said order specified, which order shall be published for three months once at least in each week successively in the state paper, and in a newspaper printed in the county where the premises are situated, if there be any, and if there is none, then in a newspaper printed in the city of New York. The publication of such order shall authorize a judgment as by default against all such unknown persons and parties, not resident in this state or not found therein, as shall not appear and answer accordingly, and all such unknown persons as may appear on such notice may be made parties to the action and the complaint may be amended for that purpose.

Laws 1855, chap. 327, sec. 3.
3 Ed. Rev. Stat., 356.

SECTION XLIV.

PRESUMPTIVE OWNERS MAY BE MADE PARTIES—SALES HOW MADE.

The court in its discretion may direct any person not already made a party to such action, who shall seem to be presumptively entitled as in the first section of this act specified, to be so made a party thereto. And whenever in any action to which all persons having vested estates at law or in equity shall have been made parties, or shall have been so proceeded against as unknown owners, a sale shall be had as aforesaid by order of the court; such sale shall vest in the purchaser a fee simple absolute at law and in equity, in the property so sold.

Laws 1855, chap. 327, sec. 4.
3 Ed. Rev. Stat., 356.

All sales to be directed as aforesaid shall be made by or under the direction of a referee, to be for that purpose appointed by the court, who shall have power to perfect every such sale by executing under his hand and seal a deed to the purchaser.

Id. sec. 5.

SECTION XLV.

SALE &C. OF LANDS FOR TAXES IN VILLAGES.

When any person whose property or estate shall be assessed or taxed shall fail to pay the tax or assessment and the collector cannot collect the same, and shall make return thereof, the trustees shall cause the estate so assessed to be sold at auction for a term of time for the payment of such tax or assessment, giving four weeks' notice of such sale, by putting up notices in five public places in the village, and serving personal notice on the owner or agent of said estate if a resident of such village, or on the occupant thereof, and by depositing such notice in the post office directed to such owner, if a non-resident, at his reputed place of residence, if known, at least ten days before the day of sale, and the same shall be sold to the person who shall take it, for the shortest time for the payment of such tax or assessment with interest at seven per cent. and the expense of such notice and sale. Before the time of sale the party liable for the tax, or his representative, may avoid the sale by payment of the tax to the treasurer, with twelve per cent. interest thereon and expense of notice and sale.

Laws 1870, ch. 291, title 6, sec. 6.

At any time within a year after such sale the owner or owners of the estate, or their representatives, may redeem the same, by paying to the purchaser thereof (if he shall have paid the tax and interest, and expenses of sale), the tax, expense and interest thereon at twelve per cent. per annum from the date of the payment by the purchaser; in

case the purchaser has not so paid them, by paying to the treasurer of the village the tax, expense of sale, and interest at twelve per cent. per annum from the time the tax was returned unpaid, and notifying the clerk of such payment if such tax, expense and interest are not paid within one year from the date of sale, then the trustees shall deliver to the purchaser of the estate a certificate of such sale, under the seal of the corporation, and signed by the president, the execution of which may be acknowledged or proved as a deed, and upon the receipt of such certificate the purchaser may proceed to serve upon the holder or owner of any lien upon such estate, or any part thereof, notices in writing of such sale, and that, unless redeemed within six months from the time of such service of notice, such certificate may be recorded in like manner and with effect as in case of other conveyances of real estate. Such certificate, shall be presumptive evidence of the statement contained, in all courts and places, actions and proceedings.

Laws 1870, chap. 291, title 6, sec. 7.

The purchaser receiving such certificate, or his representatives, may, in case the land is not redeemed as herein provided, enter into and occupy the same during the term for which it was sold, and shall be at liberty, within the term aforesaid, to move all the buildings and materials which he may erect or place thereon.

Laws 1870, chap. 291, title 6, sec. 8.

APPENDIX OF FORMS.

—:0:—

- No. I. Oath of Assessor,
- II. Order Appointing Assessor to fill Vacancy.
- III. Notice of Completion of Assessment.
- IV. Assessment Roll.
- V. Oath to be Endorsed on Assessment Roll.
- VI. Bond of Collector.
- VII. Warrant to Collector.
- VIII. Collector's Notice of Receipt of Warrant.
- IX. Collector's Affidavit of Unpaid Taxes.
- X. County Treasurer's Certificate to Correctness of Collector's Return.
- XI. Order Appointing Collector.
- XII. Collector's Affidavit of Non-Payment of Taxes by an Incorporated Company.
- XIII. Notice of Levy and Sale by Collector.
- IX. Affidavit that Notice of Sale has been Given.
- XV. Account to be Transmitted to the Comptroller.
- XVI. Notice to Occupant.
- XVII. Affidavit of Service. Certificate.
- XVIII. Abstract.

No. 1.

Oath of Assessor.

Albany County ss :

I, James Johnson, of the town of Watervliet, in said county, having been elected assessor of said town, do solemnly swear (or affirm), that I will support the constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of assessor, as aforesaid, according to the best of my ability.

JAMES JOHNSON.

Certificate of Justice.

County of Albany, }
Town of Watervliet, } ss :

I, Theodore C. Richmond, Justice of the Peace in and for the town of Watervliet, in said county, (or town clerk of the town of Watervliet, in said county), do hereby certify that on the 12th day of October, 1874, personally appeared before me James Johnson, of said town, who then and there duly took and subscribed the foregoing oath.

THEODORE C. RICHMOND,

Justice of the Peace.

No. 2.

Order Appointing Assessor to fill Vacancy.

County of Columbia, }
 Town of Chatham, } ss:

Whereas, a vacancy has occurred in the office of assessor of the town of Chatham, by reason of the death (or, *as the case may be*), of John Doe, heretofore elected to said office from said town, now, therefore, by virtue of the power vested in us by the statute, in such case made and provided, we, the undersigned, three of the Justices of the Peace of said town, do hereby, in order to fill such vacancy, nominate and appoint Charles Smith, assessor of said town, to hold his said office until the next succeeding annual town meeting of said town, as by law provided.

In witness whereof we have hereunto set our hands and seals the fourth day of June, 1874,

Signatures.

 No 3.
Notice of Completion of Assessment.

Notice is hereby given that the assessors of the town of (or, of the ward of the city of), have completed their assessment roll for the present year, and that a copy thereof is left with the undersigned, A. B., at his office (or, dwelling house, or, *as the case may be*), in where the same may be seen and examined by any person interested therein, until the third Tuesday of August next; and that the said assessors will meet at , in said town (or ward) on the said third Tuesday of August, at o'clock in the noon, to review their assessments, on the application of any person conceiving himself aggrieved.

Dated , the day of , 18.

A. B., }
 J. F., } Assessors.
 C. H., }

No. 4. ASSESSMENT ROLL.
Assessment Roll of the town of
for the year 18

NAMES OF TAXABLE INHABITANTS.	No. of acres land taxed.	Value of land taxed.		Value of Per- sonal estate.		Amount of tax.	
		Dollars.	Cts.	Dollars.	Cts.	Dollars.	Cts.
John Doe.....	100	400	00	1,000	00		
Richard Roe,.....	50	200	00	560	00		
Richard Roe, trustee, &c, ...	200	800	00	2,000	00		
John Brown.....							
George Johnson, ...					00		
Mechanics and Farmers' Bank Capital.....					00		
Deducting real estate,.....							
St. Andrews Society, stock owned by it,.....	1,400	23,400					
		\$326,600		326,000			

LANDS OF NON-RESIDENTS.

NAME OF TRACT OR PATENT.	No. Lot.	Part.	No. Section	No. Town- ship.	No. Range.	No. Acres.	Valuation.	
							Dollars.	Cts.
Holland Company,.....	1		2	1	1	200	500	00
"	2		"	"	"	"	500	00
"	3		"	"	"	"	600	00
"	4		"	"	"	"	400	00
"	5		"	"	"	100	200	00
"	6	North part	"	"	"	50	100	00

Bounded N. by A.B., E. by G.D.,
S. by E. F., and W. by G.H.

No. 5.

Oath to be Endorsed on Assessment Roll.

We, the undersigned, do severally depose and swear that we have set down in the foregoing assessment roll, all the real estate situated in the town of _____, according to our best information; and that, with the exception of those cases, in which the value of the said real estate has been changed by reason of proof produced before us, we have estimated the value of the said real estate, at the sums which a majority of the assessors have decided to be the full and true value thereof, and at which they would appraise the same in payment of a just debt due from a solvent debtor; and also that the said assessment roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in such roll, over and above the amount of debts due from such persons respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full and true value thereof, according to our best judgment and belief.

A. B., }
C. D., } *Assessors of the town*
E. F., } *of*

I, _____ one of the justices of the peace in and for the town of _____ do certify, that the assessors above named, appeared before me on the _____ day of _____ and did severally make and subscribe the foregoing oath.

Justice.

No. 6.

Bond of Collector.

Know all men by these presents, that we, A. B., C. D. and E. F., of the town of Canaan, in the county of Columbia, and state of New York, are held and firmly bound unto P. C., supervisor of said town, in the penal sum of (*insert double the amount of the taxes*), to be paid to the said supervisor, or to his successor in office. For which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated _____

, 18 ____
Collector.

The condition of this obligation is such, that, whereas, the said A. B., as collector of the town of Canaan, has received the assessment roll of said town, with the warrants for the collection of the taxes therein named, the total amount of which being *twenty thousand* dollars; now therefore, if the said A. B. shall faithfully execute and discharge the duties of collector of the said town of Canaan, then this obligation is to be void, otherwise in force.

A. B., *Collector.*
C. D.
E. F.

Sealed, signed and delivered }
in presence of }

County of Columbia, ss :

C. D., and E. F., of the town of Canaan in said county, being severally duly sworn, each for himself says, that he is a householder in said town and worth the sum of *forty thousand* dollars over and above his debts and liabilities.

Sworn, &c.

C. D.
E. F.

County of Columbia ss :

On this day of personally appeared before me A. B., C. D., and E. F., to me known to be the persons mentioned in and who executed the above instrument, and they severally acknowledged that they executed the same.

Signed—

No. 7.

Warrant to Collector.

State of New York, }
Columbia County, } ss :

The People of the State of New York to Collector of the
town of in said county, Greeting :

You are hereby commanded to receive and collect from the several persons named in the assessment roll, hereunto annexed and herewith delivered to you, the several sums mentioned in the last

columns thereof, opposite to their respective names. And on all sums of taxes received or collected within thirty days after giving the notices required by the twenty-ninth section of the act of May 10, 1845, chapter 180, you are directed to receive and collect, in addition to the taxes named in said assessment roll, one cent on every dollar of tax, and one cent on every sum less than one dollar of tax, for your fee for collecting the same. And on all sums of taxes remaining unpaid after the expiration of thirty days from the posting of the notices specified in said act, you are directed to receive and collect, in addition to the said tax so remaining unpaid, five cents on every dollar, for your fees for collecting the same. And you are hereby directed, out of the moneys so collected, to pay on or before the

day of next :

\$ 1. To the commissioner of highways of said town the sum of dollars and cents, levied and assessed on said town, for the support of highways and bridges.

\$ 2. To the overseers of the poor of said town, the sum of dollars and cents, for moneys levied and assessed on said town, for the support of the town poor.

\$ 3. To the supervisor of said town, the sum of dollars and cents, for town charges assessed on said town.

\$ 4. To the treasurer of said county, the sum of dollars and cents, for and on account of a state tax levied on said town.

\$ 5. To the treasurer of said county, the sum of dollars and cents, for and on account of the military tax levied on said roll,

\$ 6. To the treasurer of said county, the sum of dollars and cents, being the remainder of the moneys so to be collected.

You will proceed as directed by the 29th and 30th sections of the act, entitled "An act to reduce the number of town officers and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845.

And in case any person named in said assessment roll shall neglect or refuse to pay his taxes, or the fees for collecting the same (after giving the notices and awaiting the time specified in said act), you are hereby authorized to levy and collect the said taxes and fees as aforesaid, by distress and sale of the goods and chattels of such person, together with the costs and charges of such distress and sale; and for so doing this shall be your sufficient warrant.

Given under the hands and seals of the undersigned, the board of supervisors of Columbia County, at Hudson the day of in the year of our Lord one thousand eight hundred and

Signatures and Seals.

No. 8.

Collector's Notice of Receipt of Warrant.

Notice is hereby given to the taxable inhabitants of the town of
 (or, of the ward in the city of), that I, the under-
 signed, collector of taxes in and for said town (or ward), have re-
 ceived the warrant for the collection of the taxes for the present
 year; and that I will attend at in said town (or ward), on
 day of each week, for thirty days from the date hereof, from nine
 o'clock in the forenoon until four o'clock in the afternoon, for the
 purpose of receiving payment of taxes:

Dated , the day of , 18 .

A. B.,
Collector.

No. 9-

Collector's Affidavit of Unpaid Taxes.

County, {
 Town of } ss.:

being duly sworn, says that he is the collector of taxes
 for said town; that the annexed is a true account of the taxes re-
 maining unpaid upon the assessment roll of said town for the year
 ; that the sums mentioned in such account remain unpaid;
 and that he has not, upon diligent inquiry, been able to discover any
 goods or chattels, belonging to, or in the possession of the persons
 charged with, or liable to pay such sums, whereon he could levy the
 same.

Collector.

Sworn and subscribed before me, {
 this day of , 18 . }

County Treasurer.

No. 10.

County Treasurer's Certificate to Correctness of Collector's Return.

Treasurer's Office, }
County, }

I hereby certify that the preceding is the account of unpaid taxes of the year , delivered to me by , collector of taxes of the town of , in said county; and that I have examined and compared such account with the entries of the same taxes, in the original assessment roll of said town for said year, and found the same to be a true transcript from such roll.

Dated at this day of , 18 .

County Treasurer.

No. 11.

Order Appointing Collector.

Whereas, a vacancy has occurred in the office of collector of taxes of the town of Canaan, County of Columbia, and State of New York, by reason of the death (*refusal to serve, or, as the case may be*), of A. B., heretofore elected to said office from said town,—

Now, therefore, by virtue of the power vested in us by statute, in such case made and provided, we, the undersigned, supervisor and two justices of said town of Canaan, do hereby, in order to fill the vacancy, appoint C. D. collector of said town, to hold said office until the next succeeding annual town meeting of said town, as provided by law.

In witness whereof we have hereunto set our hands and seals this tenth day of May, 1874.

G. H.,
Supervisor.

J. K.,
L. M.,

Justices of the Peace

No. 12.

Collector's Affidavit of Non-Payment of Taxes by an Incorporated Company.

County of ss.:

A. B., of the town of , in the county aforesaid, being duly sworn, saith, that on the day of , 18 , he demanded of the president of the company, the sum of , it being the amount of the tax assessed upon said company; and that the president of said company did then and hath since refused to pay any part of the said tax assessed on said company—and further, that said company has no personal property from which said tax could be levied.

A. B.,
Collector.

Subscribed and sworn before me }
this day of , 18 . }

No. 13.

Notice of Levy and Sale by Collector.

By virtue of a collector's warrant, I have levied upon and taken the following goods and chattels of G. H. (or, in the possession of G. H., as the case may be), viz: (insert list of articles) which I shall sell at public auction, at

in said town of on the day of
next, at o'clock in the noon of that
day.

Dated at the day of 18

A. B.,
Collector.

No. 14.

Affidavit That Notice of Sale has been Given.

COUNTY, ss.:

A. B., of the town of in the county aforesaid, being duly sworn, says that on the day of 18 , he posted up in the town aforesaid, a notice of sale of the goods and chattels of G. H., at the three following places, viz: (insert them) and that said notices continued so posted up until the day of 18 , the day appointed for the sale of said goods and chattels.

A. B.

Subscribed and sworn before me, }
this day of 18 }

No. 15. ACCOUNT TO BE TRANSMITTED TO THE COMPTROLLER.

Account of unpaid taxes of the year 18 , on lands of non-residents in the town of in the county of

No. of Lot.	NAME OF TRACT OR PATENT.	No. of Acres.	Valuation.		Amount of tax, including five per cent. for fees.	
			Dollars.	Cents.	Dollars.	Cents.
351	<i>Grand Division.</i>	273	546	00	6	70

No. 16

Notice To Occupant.

To

Sir—Please to take notice, that a sale has been made by the comptroller of this state, at the capitol, in the city of Albany, on the day of , at which sale purchased the following described piece or lot of land, viz :

For which paid dollars consideration money, which lot or piece of land I understand you occupy, reside on, or have in your possession.

Also, please to take notice, that the comptroller did, on the day of , 18 , convey to the aforesaid described piece or lot of land by deed, for the consideration above expressed; and that unless the said consideration money, with the addition of $37\frac{1}{2}$ per cent, and fifty cents for the deed, shall be paid into the treasury for the benefit of within six months after the evidence of the service of this notice is filed in the comptroller's office, the said conveyance will become absolute, and the occupant or occupants and all others interested in the said lands will be forever barred from all right or title thereto.

Dated the day of , 18 .
Yours, &c.

No. 17.

Affidavit of Service—Certificate.

State of New York, }
County. } ss :

I, being duly sworn, do depose and say, that I did on the day of 18 , serve a copy of the above notice on who occupant , and had the possession of said lot; and that I examined said lot, and inquired whether there were any other occupant , on said lot, and could not ascertain that there were any, and believe that there were no other occupant on said premises.

A. B.

I certify that the above named came before me this day of , 18 , subscribed his name to the above affidavit, and swore that its contents were true, and I also certify, that I am well acquainted with the said and know him to be a man of respectability, and would place the fullest confidence in all representations made by him as a man of truth and veracity.

Dated this day of 18 .

C. D.,
Commissioner, &c.

No. 18. ABSTRACT.

TOWNLOT		
	Amount of tax on one dollar's valuation.	
	Total.	
	Town tax and interest.	
	County tax apportioned.	
	Total State Tax, — mills.	
	State tax for canals, $1\frac{1}{4}$ mills.	
	State tax for general purposes, $1\frac{1}{4}$ mills.	
	State Tax for School purposes, $1\frac{1}{4}$ mills.	
	Town Audits.	
	Aggregate value of real and personal property.	
	Value of personal property.	
	Real estate as equalized.	
	Total value of real estate.	
	Valuation of real estate other than village property.	
	Valuation of real estate assessed as village property.	
	Number of Acres.	

Add columns for any other State or other tax there may be.

INDEX.

A.

AGENTS

consignment of products to, 109.

AGRICULTURAL SOCIETIES

exempt, 36.

APPEAL

evidence on state assessors, 25.

APPEALS

pending state assessors, 25.

ASSAY OFFICE

of United States exempt, 38.

ASSESSMENT

of bank stock, 47.

of companies, how made, 57.

roll, form of, 244,

notice of completion of, 243.

districts, 82.

of trustees, guardian, executor or administrator, 85.

when to be made, 83.

roll, when to be completed, 91.

notice of, 91, 92.

contents of notice, 92.

to be sworn to, 96.

to be delivered to supervisor, 97.

supervisors to examine, 97.

ASSESSMENTS

review of illegal, 102, 103.

ASSESSORS, STATE

oath of office, 20.

powers of, 20.

meeting of, 20.

two to transact business, 20.

to visit counties, 20, 21.
deposit of books and papers, 21.
salary of, 23.
appeals to, 24, 28.
duty of, on appeals from supervisors, 24.
what to determine on appeal, 25.

ASSESSORS, TOWN

election of, 112.
to administer oaths, 96.
neglect of, 98.
reduction of valuation by, 95.
jurisdiction of, 47.
expenses of, how paid, 81.
to ascertain amount of rent in leases, 72.
to prepare assessment roll, 84.
to assess property at its full value, 88.
penalty for neglect to meet, 94.
to make separate valuations of town, village or city lands, 110.
to take oath of office, 118.
neglect to take oath, 113.
penalty for not serving, 114.
if Quaker chosen, 114.
resignation of, 114, 115.
to ascertain damage to sheep, 123.
their certificate to be evidence, 123.
certificate to be given to town auditors, 124.
vacancy, how filled, 115.
where town neglects to choose justice to appoint, 115.
when appointed, how long to hold, 116.
fees of, 116.
to ascertain number of insane persons, 116.
if delinquent, to be returned to comptroller, 117.
when required to meet, 118.
duty of, in forcing payment of taxes, 118.
how to enforce payment of taxes, 118, 119.
to assess dog tax, 121.
to ascertain owners of dogs, 121.
owners of dogs to give description to, 122.
how to collect tax on dogs, 122.

B.

BANK STOCK

assessment of, 47.
taxation of, 48.

BANK, NATIONAL

shareholders of, 48.

BANKS

tax of stockholders in, 50.

to be assessed where located, 50.

deduction to be made, 50.

list of stockholders to be kept in, 51.

amount of moneys used and deposited in, 51.

collection of taxes on, 52.

duty of as to collection of tax, 51.

to retain dividends, 59.

savings, 59.

deposited in, 60.

BANKERS

individual oath of, 57.

list of, 58.

non-resident tax on, 60.

BOND

when considered assigned to county treasurer, 159.

satisfaction of collectors, 172.

BRIDGES AND ROADS

assessment of, 108.

C.**CANAL DEBT**

tax for, 27.

CANALS

tax on, 69.

rate of tax on, 69.

CEMETERY

property exempt, 33.

COLLECTOR

election of, 146.

to give bond, 147.

in case refuse to serve, 148.

in case of neglect to qualify, 149.

supervisors to deliver assessment roll to, 150.

duty of, 152.

liability of, 152.

collection of dog tax by, 152.

fees of, 152, 153, 155.

notice of receipt of tax warrant, 153.

form of notice of receipt of warrant, 248.

form of affidavit of unpaid taxes, 248.

payment of taxes to, how compelled, 156.
to receive tax on part of lot, 157.
payment of tax to, how compelled, 158.
sale and notice by, 159.
form of notice of sale and levy by, 250.
proceedings of, in case of removal of person taxed, 160.
duties of, 161.
taxes on corporations, how collected, 161.
collection of tax on non-resident stockholders, 164.
when to pay over moneys in villages, 165.
collection of taxes by, 167.
when stayed by injunction, 167.
to whom to pay over tax, 168.
duty of, as to unpaid taxes, 168.
if he refuse to pay over moneys, proceedings against, 169.
warrant against, duty of sheriff, 170.
satisfaction of bond of, 172.
losses, 173.
losses on what to be charged, 173.
when required to meet, 118.

COMPANIES

liable to taxation, 47, 49.
joint-stock to be taxed, 49.
how assessed, 55.
assessment of, how made, 57.
reduction of assessment of, 57.
tax on, 69.
rate of tax on, 69.

COMPTROLLER

to fix state tax, 22.
when to procure mandamus, 23.
to distribute blank forms, 101.
to direct attorney-general to file petition in supreme court, 178.
certificate of deed, 179.
may assign to counties certificate of tax sales, 179.
county treasurer, certificate of unpaid taxes to, 180.
to apportion state tax, 180.
when lands are imperfectly described, 181, 183.
arrears of state tax how paid to, 181.
to state accounts of county treasurer, 181.
to furnish statement of arrears, 182.
to send to county treasurers transcript of rejected taxes, 183.
to send transcript to supervisors, 183.
when to cancel taxes, 184.
to send account to supervisors, 184.

as to overpaid taxes, 185.
as to interest on unpaid taxes, 185.
certificate of taxes due, 185.
on certificate of, may pay tax on lands to state treasurer, 186.
taxes how paid to, 186.
overcharges refunded by, 186.
to charge overcharges to county, 187.
not to sell lands at tax sale on which state has a lien, 187.
how lien discharged, 188.
to admit unpaid taxes of 1879, 190.
to issue bonds in anticipation of state tax, 190.
how to apply proceeds, 190.
limit of gross amount, 190.
amount of appropriation for, 190.
to draw warrant on treasurer for national guard, 191.
amount of warrant, 191.
delinquent assessors to be returned to, 117.
to notify supervisors of imperfect descriptions of lands, 117.
when to sell lands for unpaid taxes, 213.
to make lists of land and notices of sale, 213.
to transmit lists by agents, 214.
pay of agents, 214.
how to pay expenses of lists and notices, 215.
to publish lists of lands to be sold, 216.
affidavit of publication to be sent to, 216.
to make maps of land to be sold, 217.
sale of lands by, 217.
bids how paid to, 218.
to give certificate of purchase, 219, 228.
cancellation of sale by, 219.
may set aside cancellation of sale, 219.
may issue new certificate of sale, 220.
change of purchaser, 220.
fine for redemption, 220.
undivided parts, 220.
undivided share of undivided parts, 221.
specific part of land, 227.
specific part of individual tract, 221.
as to proportionate parts how paid, 221.
partial redemption, 222.
as to taxes on lands conjointly sold, 222.
suits for proportion of value, 223.
lien of judgment on lands, 223.
docket of judgment how made, 223.
to give notice of unredeemed lands, 224.

how to publish notice, 224.
deeds by, 225.
in case of lost certificate, 225.
conveyances how executed by, 225.
to bid in for state, 226.
sale of lands bid in by, 226,
notice to occupants, 227.
notice how served, 228.
redemption of land, 228.
certificate of facts, 229.
occupant of land may redeem, 229.
certificate, on receipt of treasurer, 230.
mortgagee's lien not effected, 230.
notice to mortgagee when to be given, 230.
"mortgagee" defined, 231.
payment to whom, on tax sales, 232.
invalid sales, how corrected, 233.
cancelling sale and refunding money, 233.
expense of sale, 234.
to pay moneys into treasury, 234.
payments how audited by, 235.

CORPORATIONS

taxation of, 45,
foreign to pay tax, 49.
to make returns, 49.
to pay tax to comptroller, 49.
property of, where taxed, 52.
officers of, to deliver statement to assessors and to comptroller, 53.
penalty for neglect, 54.
suits against therefor, 55.
capital stock taxed, 64.
to make report, 64.
what report to contain, 67.
to add to tax of, 65.
failure of to make report, 66.
where to pay tax, 67, 71.
amount of tax on, 68.

COUNTY CHARGES

money how raised for, 23.

COUNTY TREASURER

see treasurer.

D.

DELAWARE AND HUDSON CANAL CO.

tax of, 105.

apportion of, to be in writing, 105.

demands sent to this state for collection exempt, 36.

DOGS

tax on, 121.

owners of to give description to assessors, 122.

E.

EQUALIZATION

board of, 19.

meeting of, 21.

statement to be made of taxes by, 27.

of town assessments, 44.

exempt property, 32, 33, 34, 35, 36.

EXPRESS COMPANIES

tax on, 69.

rate of tax on, 69.

F.

FIRE COMPANIES

members of, exempt, 43.

FORMS

oath of assessor, 242.

order appointing assessor to fill vacancy, 243.

notice of completion of assessment, 243.

assessment roll, 244.

oath to assessment roll, 245.

warrant to collector, 246.

collector's notice of receipt of warrant, 248.

collector's affidavit of unpaid taxes, 248.

county treasurer's certificate to correctness of collector's return, 249.

order appointing collector, 249.

collector's affidavit of non-payment of taxes by incorporated company, 250.

affavit that notice of sale has been given, 250.

account to be transmitted to comptroller, 251.

notice to occupant, 252.

affidavit of service and certificate, 252.

abstract, 253.

H.

HIGHWAY COMMISSIONERS

to assess labor, 111.

HOUSE OF REST FOR CONSUMPTIVES

exempt, 42.

I.

INCORPORATED COMPANY

when not taxed, 35.

INDIANS

Seneca exempt, 41.

Tonawanda exempt, 41.

INSURANCE COMPANIES

foreign, tax on, 61.

life, amount of tax of, 62.

return to comptroller, 62.

penalty for neglect, 72.

action against to recover tax, 62.

INSANE

poor at asylum, expenses of to be paid by county or town, 137.

INSURANCE

life, lands of, to be assessed where situated, 62.

J.

JEWISH THEOLOGICAL SEMINARY

exempt, 42.

JOINT STOCK COMPANIES .

tax of, 49.

to make returns to comptroller, 49.

tax on capital stock of, 64.

president of to make annual report to comptroller, 64.

where dividend of has not been made, 64.

treasurer and secretary of to appraise capital stock of, 64.

certificate of appraisement of, to be sent to comptroller, 64.

failure to report to comptroller, 65.

failure of, to report for two successive years, 65.

comptroller to report fact to governor, 66.

annual tax of, 65.

amount of tax of, 66.

JUDGE

county orders of, how enforced, 199.

L.

LAND

- tax on, 30.
- unoccupied, how assessed, 88.
- sold by the state exempt, 35.
- ceded to the United States exempt, 43.
- of companies to be assessed where situated, 62.
- where to be assessed, 107.
- to whom assessed, 107. .
- when divided by town line, 108.
- taxes on, returned unpaid, 131.
- tax on, may be paid to county treasurer, 132.
- where premises of one person erroneously taxed in with another, 175.
- application to apportion taxes on, 175.
- bonded to the state when resold, 189.
- when to be sold by comptroller for unpaid taxes, 213.
- redemption of, 220, 228.
- undivided parts of, 220.
- undivided share of undivided part, 220.
- specific part of, 221.
- specific part of undivided tract, 221.
- tax on proportional parts how paid, 221.
- taxes on land conjointly sold, 222.
- suits for proportion of value, 223.
- lien of judgment on, 223.
- notice to occupant of, 227.
- form of notice to occupant, 252.
- notice, how served, 228.
- form of affidavit of service, 252.
- occupant of, may redeem, 229.
- mortgagee of, to have notice, 230.
- mortgagee's lien not affected, 230, 231.
- sale of, by supreme court, 237.
- extension of time for redemption of, 237.
- redemption of, by agreement, 238.
- in case of unknown owners of, presumptive owners may be made parties, 239.
- sales of, by court how made, 240.
- sales of, in village, 240.

M.

MINISTER

exempt, 34.

MINTS

United States exempt, 38.

"MORTGAGEE "

defined, 231.

lien not affected, 230.

notice to, by purchaser at tax sales, 230.

right of filing notice to return, 232.

MONEY

to pay county charges, how raised, 23.

Mortgage - rights of 230

N.

NATIONAL BANKS

shareholders, 48.

NON-RESIDENT

stockholders, 58.

bankers, tax on, 60.

debts due, 76.

agents of, to report to county treasurer, 76.

penalty for neglect, 76.

lands of, how assessed, 86, 100.

lands, survey of, 88.

lands of, tax to be set down, 100.

aggregate valuation of. 100.

NON-RESIDENTS

tax on, 32, 110.

stockholders, 164.

P.

PROPERTY

exempt, 32.

PRIEST

exemption of, 34.

POOR HOUSES

exempt, 35.

PLANK ROADS

exempt, 36.

PROPERTY

exempt from execution, 38, 39, 40. —

omitted, how taxed, 89.

"PERSON"

meaning of, 92.

PERSONAL PROPERTY

where assessed, 108.

PERSONAL ESTATE

tax on, 30.

"PERSONAL ESTATE"

defined, 31.

R**RAILROADS**

tax on, 69.

RENTS

rate of, 69. *Redemption 220.*

supervisors to assess tax on, 74.

collection of tax on, 75.

ROADS

assessment of, 108.

RAILROADS

taxes on, returned unpaid, 131.

may pay tax to county treasurer, 162, 198.

S.**SAVINGS**

banks, 59.

deposits in, 60.

SENECA INDIANS

exempt, 41.

SHAREHOLDERS

of bank stock, tax of, 48.

SHERIFF

duty of, on warrant against collector, 170.

return of warrant by, 171.

SINKING FUND

canal, 27.

STATE TAX

for deficiency in sinking fund, 26.

how applied, 26.

STATE ASSESSORS. (*See Assessors.*)**SOLDIERS'**

monument association exempt, 34.

STEAMBOATS

tax on, 69.

rate of tax on, 69.

SUPERVISORS

- to include state tax in assessment rolls, 23.
- to raise money to pay county charges, 23.
- to audit costs of appeal, 28.
- how to assess rents, 74.
- duties of, 89.
- to examine assessment roll, 99.
- to send to comptroller names of assessors and town clerks, 99.
- to transmit statement to comptroller, 127.
- appeals by, to the comptroller, 127.
- appeals, when to be made, 128.
- costs and expenses of appeal by, 129.
- to publish their proceedings, 130.
- when to make description of land to comptroller, 131.
- if not made, tax to be assessed on town, 133.
- how assessed in division of towns, 134.
- authorize supplementary proceedings for collecting tax. 134.
- clerks of boards to report to comptroller indebtedness of counties, towns and villages, 135.
- may legalize acts of towns, 135.
- may correct error in assessments, 135.
- refunding of taxes by, 135.
- appeals from, 136.
- taxes refunded by, how apportioned, 136.
- to levy tax due in disputed boundary lines, 136.
- when to raise money for insane poor at asylum, 137.
- may borrow money for highway purposes, 139.
- board of, to prescribe form of obligation, 140.
- tax, how imposed by, 140.
- to give bonds to county treasurer for school money, 141.
- may authorize county treasurer to extend time for collection of taxes, 142.
- to impose tax on dogs, 121.
- tax by, to pay for sheep killed, 142.
- to authorize any town to elect a tax receiver, 143, 146.
- to designate number of assessors, 143.
- to provide tax to pay loans, 143.
- to pay troops while on duty, 144.
- to deliver assessment roll to collector, 150.
- to annex warrant, contents of, 150.
- to transmit account to county treasurer, 153.
- to require assessors and collectors to meet, 117.

T.

TAX, STATE.

- deficiency in sinking fund, 26.
- how applied, 26.
- when to be paid, 179. 199.
- how paid, 179.

TAX

- for paying canal debt, 27.
- correcting, 90.

TAXES.

- equalization of, 27.
- unpaid, how collected, 78.

TAX

- on non-residents, 32.

TELEGRAPH COMPANIES

- tax on, 69.
- rate of tax on, 69.

TOWN ASSESSMENTS

- equalization of, 44.

TOWN AND VILLAGES

- may levy tax to pay bonded indebtedness, 138.

TOWN BOARD OR VILLAGE TRUSTEES

- to determine amount, 138.

TOWN MONEY

- raised by, how disposed of, 139.

TREASURER COUNTY

- agents to report to, 76.
- to abstract to assessors, 77.
- expenses how paid, 81.
- to send forms to town clerks, 101.
- to send certificate of unpaid taxes to comptroller, 180.
- board of, 194.
- new bond may be required of, 194,
- to file bond, 194.
- duties of, 195.
- bond to state to be filed with comptroller, 195.
- further bond may be required by comptroller, 195.
- to execute additional bonds, 200.
- when office of, vacant, 196.
- pay of, 196, 205, 235.
- when action may be brought on bond of, 197.
- costs of suit against, 197.
- judgment not a bar to another suit, 198.
- tax on railroads paid to, 198.

- when to make investments in bonds, 199.
- bonds purchased by, to be held as a sinking fund, 199.
- proceedings in case of neglect of duty of, 199.
- orders of county judge against, how enforced, 199.
- to report to adjutant general amount of moneys of national guard, 200.
- to pay school trustees amount of taxes returned unpaid, 201.
- to report to supervisors unpaid taxes of school moneys, 201.
- to designate banks of deposit, 202.
- interest on deposits, 202.
- to deposit moneys, 202.
- limitation of as to depositaries, 202.
- proviso as to, 202.
- depositors to give bond, 203.
- not relieved from liability, 204.
- only to draw money for county claims, 204.
- misappropriation by, 204.
- transferring deposits, 204.
- may have clerks and assistants, 205.
- accounts of, 205.
- misconduct of, 206.
- removal of, 206.
- counties excepted from the act, 206.
- pay for receiving and paying money belonging to state, 207.
- penalty for neglect to deliver books, money and papers to successor, 208.
- penalty for neglect to pay over money on order of court, 208.
- when tax is returned for want of goods and chattels, 209.
- finances and penalties of court martials, to be paid to, 210.
- accounts of, 210.
- to exhibit account to supervisors, 210.
- to retain in his office lists of lands, received from comptroller, 215.
- expenses of, 216.
- payment to, on county tax sales, 222.
- payment to on state tax sales, 232.
- TRUSTEES OF VILLAGES
 - to raise money by tax. 120.
- TURNPIKES
 - exempt, 36.

U.

UNITED STATES

- assay office exempt, 38.

mint exempt, 38.
land ceded to, exempt, 43.
direct tax, sales for, 173.

V.

VILLAGE TRUSTEES

may levy tax to pay bonded indebtedness, 138.
to determine amount, 138.
to raise money by tax, 120.
collector to pay over moneys in, 165.

W,

WARRANTS

tax how made out, 79,
lien of, 79.
sheriff neglect to return, 80.
proceedings if returned unsatisfied, 80.
to be annexed to assessment roll, 150.
contents of, 150.

